

SENATE, No. 1659

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

“Innovate New Jersey Act”; establishes tax-free business incubators at institutions of higher education.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning assistance to business incubation facilities at
2 institutions of higher education, supplementing P.L.1974, c.180
3 (C.34:1B-1 et seq.), and amending R.S.54:4-3.6.

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

7
8 1. (New section) This act shall be known and may be cited as
9 the "Innovate New Jersey Act."

10
11 2. (New section) As used in P.L. , c. (C.) (pending
12 before the Legislature as this bill):

13 "Advanced technology center" means a center at a public or
14 private institution of higher education, which is provided substantial
15 and concentrated financial support to promote the development of
16 innovative technology research.

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

20 "Business incubation facility" means a low-cost, short-term
21 occupancy, rental space wherein assistance is granted to a targeted
22 network of new businesses employing selected technologies
23 congruent with the strengths of a public or private institution of
24 higher education in this State. A "business incubation facility"
25 shall include any "business incubation facilities" as defined in
26 section 2 of P.L.1985, c.102 (C.52:9X-2); a "qualified incubator
27 facility" as defined in section 2 of P.L.2011, c.149 (C.34:1B-243) or
28 section 3 of P.L.2009, c.90 (C.52:27D-489c); or an "advanced
29 technology center" or innovation zone established by the authority
30 if the "business incubation facilities," "qualified incubator facility,"
31 "advanced technology center," or innovation zone is located on the
32 campus of an institution of higher education and otherwise meets
33 the criteria established pursuant to P.L. , c. (C.) (pending
34 before the Legislature as this bill).

35 "County college" means an educational institution established or
36 to be established by one or more counties, offering programs of
37 instruction, extending not more than two years beyond high school,
38 which may include, but not be limited to, specialized or
39 comprehensive curriculums, including college credit transfer
40 courses, terminal courses in the liberal arts and sciences, and
41 technical institute type programs.

42 "Director" means the Director of the Division of Taxation in the
43 Department of the Treasury. "Eligible land" means land eligible
44 pursuant to sections 5 or 6 of P.L. , c. (C.) (pending before
45 the Legislature as this bill) for approval as a tax-free

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 New Jersey area.

2 "Innovate New Jersey Board" or "board" means the Innovate
3 New Jersey Board established pursuant to section 4 of P.L. ,
4 c. (C.) (pending before the Legislature as this bill).

5 "Innovate New Jersey Grant Fund" or "fund" means the Innovate
6 New Jersey Grant Fund established pursuant to section 18 of
7 P.L. , c. (C.) (pending before the Legislature as this bill).

8 "Innovate New Jersey Program" or "program" means the
9 Innovate New Jersey Program established pursuant to the provisions
10 of P.L. , c. (C.) (pending before the Legislature as this bill).

11 "Institution of higher education" shall include a public institution
12 of higher education and private institution of higher education.

13 "Net new job" means a job created in a tax-free New Jersey area
14 that satisfies all of the following criteria:

15 a. is new to the State;

16 b. has not been transferred from another business located in
17 this State through: an acquisition, merger, consolidation, or other
18 reorganization of businesses; the acquisition of assets of another
19 business; or from a related person in this State;

20 c. is either a full-time wage-paying job or equivalent to a full-
21 time wage-paying job requiring at least 35 hours of work per week;
22 and

23 d. is filled for more than six months.

24 Net new job shall not include a job filled by an individual
25 employed within the State within the immediately preceding 60
26 months by a related person.

27 "New business" means a business that satisfies all of the
28 following criteria:

29 a. the business is not operating or located within the State at
30 the time it submits its application to participate in the Innovate New
31 Jersey Program;

32 b. the business is not moving existing jobs into a tax-free New
33 Jersey area from another area in the State;

34 c. the business is not substantially similar in operation and in
35 ownership to a business entity that is taxable, taxable within the last
36 five taxable years, or which would have been subject to tax under
37 the tax laws of this State; and

38 d. the business shall not have caused individuals to transfer
39 from existing employment with a related person located in the State
40 to similar employment with the business, unless the business has
41 received approval for the transfers from the authority after
42 demonstrating that the related person has not eliminated those
43 existing positions.

44 "Private institution of higher education" means an independent
45 college, university, or institute incorporated and located in New
46 Jersey, which by virtue of law, character, or license is a nonprofit
47 educational institution authorized to grant academic degrees and
48 provide a level of education which is equivalent to the education

1 provided by the State's public institutions of higher education as
2 attested by the receipt of and continuation of regional accreditation
3 by the Middle States Association of Colleges and Schools, and
4 which is eligible to receive State aid under the provisions of the
5 Constitution of the United States and the Constitution of the State
6 of New Jersey, but does not include any educational institution
7 dedicated primarily to the education or training of ministers, priests,
8 rabbis, or other professional persons in the field of religion.

9 "Public institution of higher education" means Rutgers, The State
10 University of New Jersey, the New Jersey Institute of Technology,
11 Rowan University, a State college, a county college, and any other
12 New Jersey public university or college established or authorized by
13 law.

14 "Related person" shall have the same meaning as provided in
15 subparagraph (C) of paragraph 3 of subsection (b) of section 465 of
16 the federal Internal Revenue Code (26 U.S.C. s.465).

17 "Sponsoring institution of higher education" means an institution
18 of higher education that has received approval to sponsor a tax-free
19 New Jersey area pursuant to sections 7 or 8 of P.L. , c. (C.)
20 (pending before the Legislature as this bill).

21 "Tax-free New Jersey area" means eligible land or vacant space
22 of an institution of higher education that meets the eligibility
23 criteria and has been approved as a tax-free New Jersey area
24 pursuant to sections 7 or 8 of P.L. , c. (C.) (pending before
25 the Legislature as this bill).

26 "Underutilized property" means abandoned eligible land or
27 vacant space at an institution of higher education.

28

29 3. (New section) There is established an "Innovate New Jersey
30 Program" within the authority. The purpose of the program is to
31 provide assistance to any qualified new business in operation at a
32 business incubation facility on the campus of an institution of
33 higher education located in New Jersey.

34

35 4. (New section) a. There is established within the authority
36 the Innovate New Jersey Board.

37 b. The purpose of the board shall be to review, consider, and
38 approve applications by institutions of higher education to allocate:

39 (1) tax-free space for a business incubation facility where
40 qualified new businesses will be eligible to locate and operate; and

41 (2) allocate grant monies made available through the Innovate
42 New Jersey Grant Fund established pursuant to section 18 of
43 P.L. , c. (C.) (pending before the Legislature as this bill).

44 c. The board shall be comprised of five members. The
45 Governor, the President of the Senate, the Speaker of the General
46 Assembly, the Senate Minority Leader, and the Assembly Minority
47 Leader shall each appoint one member with significant expertise
48 and experience in academic-based economic development. Each

1 member of the board shall serve a term of five years. A board
2 member shall recuse himself or herself from voting on any project
3 where the board member, a member of his or her immediate family,
4 or a business organization in which he or she has an interest, has a
5 direct or indirect financial involvement that may reasonably be
6 expected to impair his or her objectivity or independence of
7 judgment. Vacancies in the membership of the board shall be filled
8 in the same manner as the original appointments were made. Board
9 members shall serve without compensation but may be reimbursed
10 for necessary expenses incurred in the performance of their duties
11 within the limits of funds available to the board.

12 d. The board shall be entitled to call to its assistance and avail
13 itself of the services of the employees of the authority, any
14 institution of higher education, and any State department, board,
15 bureau, commission, authority, agency, or other entity, as the board
16 may require and as may be available for its purposes. The board
17 may employ stenographic and clerical assistance, and incur
18 traveling and other miscellaneous expenses as may be necessary to
19 perform its duties, within the limits of funds made available to the
20 board for its purposes. The authority shall provide staffing for the
21 work of the board.

22 e. The board may approve an application by an institution of
23 higher education for the purposes described in subsection b. of this
24 section only by a majority vote of the full membership of the board.
25

26 5. (New section) a. Subject to the limitations prescribed in
27 this section, the following shall constitute the eligible land of a
28 public institution of higher education:

29 (1) any vacant land or vacant space in any building located on a
30 campus of a public institution of higher education; and

31 (2) a business incubation facility having a bona fide affiliation
32 with a public institution of higher education with the approval of
33 the authority.

34 In order for there to be a bona fide affiliation of a business
35 incubation facility with a public institution of higher education, the
36 business incubation facility and the public institution of higher
37 education shall have established a partnership to provide assistance
38 and physical space to a new business. The business incubation
39 facility and the public institution of higher education shall directly
40 work towards the goal of jointly creating jobs and incubating new
41 startup businesses and the mission and activities of the business
42 incubation facility shall align with or further the academic mission
43 of the public institution of higher education.

44 b. A public institution of higher education which qualifies
45 under subsection a. of this section may apply to the Innovate New
46 Jersey Board for a determination that identified vacant land or
47 identified vacant space in a building on the public institution of

1 higher assistance's campus, is eligible land for purposes of this
2 program.

3 c. The board shall give consideration to factors including rural,
4 suburban, and urban geographic location and may qualify the
5 identified land or space in a building as eligible land if the board, in
6 consultation with the authority and the Secretary of Higher
7 Education or the secretary's designee, determines that the public
8 institution of higher education has shown that the use of the land or
9 space will be consistent with the requirements of the program and
10 the plan submitted by the public institution of higher education.
11 The aggregate amount of qualified land or space under this section
12 shall not exceed 150,000 square feet per public institution of higher
13 education and, when combined with the aggregate amount of
14 qualified land or space under section 6 of P.L. , c. (C.)
15 (pending before the Legislature as this bill), shall not exceed 1.5
16 million square feet within the State. The board shall maintain an
17 accounting of the vacant land and space of public institutions of
18 higher education that have been approved as tax-free New Jersey
19 areas and shall stop accepting applications for approval of tax-free
20 New Jersey areas when that maximum amount has been reached.

21 d. A public institution of higher education shall not relocate or
22 eliminate any academic programs, administrative programs, offices,
23 housing facilities, dining facilities, athletic facilities, or any other
24 facility, space, or program that actively serves students, faculty, or
25 staff in order to create vacant land or space to be utilized for the
26 Innovate New Jersey Program. Nothing in P.L. , c. (C.)
27 (pending before the Legislature as this bill) shall be deemed to
28 waive or impair any rights or benefits of employees of a public
29 institution of higher education that otherwise would be available to
30 them pursuant to the terms of agreements between the certified
31 representatives of those employees and their employers. Services
32 or work currently performed by public employees of a public
33 institution of higher education or future work that is similar in
34 scope and nature to the work being currently performed by public
35 employees shall not be contracted out or privatized by a public
36 institution of higher education or by an affiliated entity or
37 associated entity of a public institution of higher education. For the
38 purpose of this section, an affiliated entity or associated entity shall
39 not include a business that is participating in the program.

40

41 6. (New section) a. Subject to the limitations prescribed in
42 this section, the following shall constitute the eligible land of a
43 private institution of higher education:

44 (1) any vacant land or vacant space in any building located on a
45 campus of a private institution of higher education; and

46 (2) a business incubation facility having a bona fide affiliation
47 with a private institution of higher education with the approval of
48 the Innovate New Jersey Board.

1 In order for there to be a bona fide affiliation of a business
2 incubation facility with a private institution of higher education, the
3 business incubation facility and the private institution of higher
4 education shall have established a partnership to provide assistance
5 and physical space to a new business. The business incubation
6 facility and the private institution of higher education shall directly
7 work towards the goal of jointly creating jobs and incubating new
8 startup businesses and the mission and activities of the business
9 incubation facility shall align with or further the academic mission
10 of the private institution of higher education.

11 b. The board shall give consideration to factors including rural,
12 suburban, and urban geographic location and may qualify the
13 identified land or space in a building as eligible land if the board, in
14 consultation with the authority and the Secretary of Higher
15 Education or the secretary's designee, determines that the public
16 institution of higher education has shown that the use of the land or
17 space will be consistent with the requirements of the program and
18 the plan submitted by the public institution of higher education.
19 The aggregate amount of qualified land or space under this section
20 shall not exceed 150,000 square feet per private institution of higher
21 education and, when combined with the aggregate amount of
22 qualified land or space under section 5 of P.L. , c. (C.)
23 (pending before the Legislature as this bill), 1.5 million square feet
24 within the State. The board shall maintain an accounting of the
25 vacant land and space of private institutions of higher education that
26 have been approved as tax-free New Jersey areas and shall stop
27 accepting applications for approval of tax-free New Jersey areas
28 when that maximum amount has been reached.

29 c. A private institution of higher education shall not relocate or
30 eliminate any academic programs, administrative programs, offices,
31 housing facilities, dining facilities, athletic facilities, or any other
32 facility, space, or program that actively serves students, faculty, or
33 staff in order to create vacant land or space to be utilized for the
34 Innovate New Jersey Program.

35
36 7. (New section) a. The president or chief executive officer of
37 any public institution of higher education seeking to sponsor a tax-
38 free New Jersey area that has eligible land, specified under section
39 5 of P.L. , c. (C.) (pending before the Legislature as this
40 bill), to be designated as a tax-free New Jersey area shall submit a
41 plan to the Innovate New Jersey Board that:

42 (1) specifies the eligible land or space the public institution of
43 higher education wants to include;

44 (2) describes the type of business or businesses that may locate
45 to that land space and explains how those types of businesses align
46 with or further the academic mission of the public institution of
47 higher education and how they would have positive community and
48 economic benefits; and

- 1 (3) describes the process the public institution of higher
2 education will follow to select participating businesses.
- 3 b. At least 30 days prior to submitting the plan described
4 pursuant to subsection a. of this section, the public institution of
5 higher education shall provide the municipality or municipalities in
6 which the proposed tax-free New Jersey area is located, the
7 applicable public institution of higher education faculty senate,
8 union representatives, and the campus student government with a
9 copy of the plan. Before approving or rejecting the plan submitted
10 by the president or chief executive officer of a public institution of
11 higher education, the board shall provide a copy of the plan to the
12 authority and the Secretary of Higher Education.
- 13 c. In evaluating the plan, the board shall examine the merits of
14 the plan, including, but not limited to, compliance with the
15 provisions of P.L. , c. (C.) (pending before the Legislature
16 as this bill), including whether the plan exceeds the aggregate
17 amount of qualified land or space provided under sections 5 or 6 of
18 P.L. , c. (C.) (pending before the Legislature as this bill),
19 the reasonableness of the economic and fiscal assumptions
20 contained in any supporting documentation, and the potential of the
21 proposed project to create new jobs. Preference shall not be given
22 based on the time of submission of the plan provided that any
23 submission deadline established by the board shall be met.
- 24 d. A public institution of higher education may amend its
25 approved plan, provided that the public institution of higher
26 education shall not violate the terms of any lease with a business
27 located in the approved tax-free New Jersey area. If a business
28 located in a tax-free New Jersey area does not have a lease with a
29 public institution of higher education, and the business is terminated
30 from the Innovate New Jersey Program pursuant to section 20 of
31 P.L. , c. (C.) (pending before the Legislature as this bill),
32 and subsequently does not relocate outside of the tax-free New
33 Jersey area, the public institution of higher education may amend its
34 approved plan to allocate an amount of vacant land or space equal
35 to the amount of space occupied by the business that is terminated.
36 The amendment shall be approved pursuant to the procedures and
37 requirements established pursuant to this section.
- 38 e. A public institution of higher education shall not accept any
39 application to locate in a tax-free New Jersey area from a business,
40 pursuant to section 9 of P.L. , c. (C.) (pending before the
41 Legislature as this bill), that would compete with other businesses
42 in the same municipality but outside the tax-free New Jersey area,
43 and the board shall reject any application submitted pursuant to this
44 section upon determining that the business would compete with
45 other businesses in the same municipality but outside the tax-free
46 New Jersey area.
- 47 f. A public institution of higher education approved for
48 participation in the Innovate New Jersey Program shall not charge a

1 new business for expenses for land or vacant space, utility services,
2 or consultation services.

3

4 8. (New section) a. The president or chief executive officer of
5 any private institution of higher education seeking to sponsor a tax-
6 free New Jersey area that has eligible land, specified under section
7 6 of P.L. , c. (C.) (pending before the Legislature as this
8 bill), to be designated as a tax-free New Jersey area shall submit a
9 plan to the Innovate New Jersey Board that:

10 (1) specifies the eligible land or space the private institution of
11 higher education wants to include;

12 (2) describes the type of business or businesses that may locate
13 on that land or in that space and explains how those types of
14 businesses align with or further the academic mission of the private
15 institution of higher education and how they would have positive
16 community and economic benefits; and

17 (3) describes the process the private institution of higher
18 education will follow to select participating businesses.

19 b. At least 30 days prior to submitting the plan described
20 pursuant to subsection a. of this section, the private institution of
21 higher education shall provide the municipality or municipalities in
22 which the proposed tax-free New Jersey area is located with a copy
23 of the plan. Before approving or rejecting the plan submitted by the
24 president or chief executive officer of a private institution of higher
25 education, the board shall provide a copy of the plan to the
26 authority and the Secretary of Higher Education.

27 c. In evaluating the plan, the board shall examine the merits of
28 the plan, including, but not limited to, compliance with the
29 provisions of P.L. , c. (C.) (pending before the Legislature
30 as this bill), including whether the plan exceeds the aggregate
31 amount of qualified land or space provided under sections 5 or 6 of
32 P.L. , c. (C.) (pending before the Legislature as this bill),
33 the reasonableness of the economic and fiscal assumptions
34 contained in any supporting documentation, and the potential of the
35 proposed project to create new jobs. Preference shall not be given
36 based on the time of submission of the plan provided that any
37 submission deadline established by the board shall be met.

38 d. A private institution of higher education may amend its
39 approved plan, provided that the private institution of higher
40 education shall not violate the terms of any lease with a business
41 located in the approved tax-free New Jersey area. If a business
42 located in a tax-free New Jersey area does not have a lease with a
43 private institution of higher education, and the business is
44 terminated from the Innovate New Jersey Program pursuant to
45 section 20 of P.L. , c. (C.) (pending before the Legislature
46 as this bill), and subsequently does not relocate outside of the tax-
47 free New Jersey area, a private institution of higher education may
48 amend its approved plan to allocate an amount of vacant land or

1 space equal to the amount of space occupied by the business that is
2 terminated. The amendment shall be approved pursuant to the
3 procedures and requirements set forth in this section.

4 e. A private institution of higher education shall not accept any
5 application to locate in a tax-free New Jersey area from a business,
6 pursuant to section 9 of P.L. , c. (C.) (pending before the
7 Legislature as this bill), that would compete with other businesses
8 in the same municipality but outside the tax-free New Jersey area,
9 and the board shall reject any application submitted pursuant to this
10 section upon determining that the business would compete with
11 other businesses in the same municipality but outside the tax-free
12 New Jersey area.

13 f. A private institution of higher education approved for
14 participation in the Innovate New Jersey Program shall not charge a
15 new business for expenses for land or vacant space, utility services,
16 or consultation services.

17
18 9. (New section) a. An institution of higher education that
19 sponsors a tax-free New Jersey area shall solicit and accept
20 applications from a new business to locate in a tax-free New Jersey
21 area. An application for eligibility shall be consistent with the plan
22 of the institution of higher education that has been approved
23 pursuant to sections 7 or 8 of P.L. , c. (C.) (pending before
24 the Legislature as this bill). A new business that wants to locate in
25 a tax-free New Jersey area shall submit an application to the
26 sponsoring institution of higher education by December 31, 2020.

27 b. The sponsoring institution of higher education shall provide
28 the application and all supporting documentation from any new
29 business it decides to accept into its tax-free New Jersey area to the
30 Innovate New Jersey Board for review and approval. The
31 application shall be in a form prescribed by the board and shall
32 contain all information the board determines is necessary to
33 properly evaluate the new business's application, including, but not
34 limited to:

35 (1) the name, address, and employer identification number of
36 the new business;

37 (2) a description of the eligible land or space the new business
38 will use;

39 (3) the terms of the lease agreement, if applicable, between the
40 sponsoring institution of higher education and the new business;
41 and

42 (4) whether or not the land or space being used by the new
43 business is being transferred or sublet to the new business from
44 some other business.

45 The application shall include a certification by the new business
46 that it meets the eligibility criteria specified in section 12 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill) and will
48 align with or further the academic mission of the sponsoring

1 institution of higher education, and that the new business's
2 participation in the Innovate New Jersey Program will have positive
3 community and economic benefits. The application shall include
4 information concerning whether the new business competes with
5 other businesses in the same community but outside the tax-free
6 New Jersey area and a description of how the new business plans to
7 recruit employees from the local workforce.

8 c. The Innovate New Jersey Board shall review the application
9 and documentation within 60 days of receipt and may reject the
10 application upon a determination that the new business does not
11 meet the eligibility criteria in section 12 of P.L. , c. (C.)
12 (pending before the Legislature as this bill), has submitted an
13 incomplete application, has failed to comply with subsection d. of
14 this section, or has failed to demonstrate that the new business's
15 participation in the Innovate New Jersey Program will have positive
16 community and economic benefits, which shall be evaluated based
17 on factors including, but not limited to, whether the new business
18 competes with other businesses in the same community but outside
19 the tax-free New Jersey area as prohibited by sections 7 and 8 of
20 P.L. , c. (C.) (pending before the Legislature as this bill).
21 If the board rejects the application, it shall provide notice of its
22 rejection to the sponsoring institution of higher education and the
23 new business. If the board does not reject the application within 60
24 days, the new business shall be accepted to locate in a tax-free New
25 Jersey area. The sponsoring institution of higher education shall
26 provide an accepted new business with documentation of the new
27 business's acceptance in a form as prescribed by the director which
28 shall be used to demonstrate the new business's eligibility for the
29 tax benefits specified in sections 16 and 17 of P.L. , c. (C.)
30 (pending before the Legislature as this bill).

31 d. If a public institution of higher education proposes to enter
32 into a lease with a new business for underutilized property with a
33 term greater than 10 years, including any options to renew, or for
34 underutilized property of up to 150,000 square feet, the public
35 institution of higher education, at the same time as the application is
36 provided to the Innovate New Jersey Board, also shall submit the
37 lease for review to the board. If the authority does not disapprove
38 of the lease terms within 30 days, the lease shall be deemed
39 approved. If the board disapproves the lease terms, the public
40 institution of higher education shall submit modified lease terms to
41 the board for review. The board's 60 day review period is
42 suspended while the authority is reviewing the lease and during the
43 time it takes the public institution of higher education to modify the
44 lease terms.

45 e. Except as otherwise provided in law, proprietary information
46 or supporting documentation submitted by a new business to a
47 sponsoring institution of higher education shall only be utilized for
48 the purpose of evaluating a new business's application or

1 compliance with the provisions of P.L. , c. (C.) (pending
2 before the Legislature as this bill) and shall not otherwise be
3 disclosed. A person who willfully discloses proprietary information
4 to a third party for any other purpose whatsoever shall be guilty of a
5 crime of the fourth degree.

6
7 10. (New section) a. At the conclusion of the term of a lease
8 between the sponsoring institution of higher education and a new
9 business for underutilized property in a tax-free New Jersey area at
10 a sponsoring institution of higher education, the leased
11 underutilized property and any improvements thereon shall revert to
12 the sponsoring institution of higher education, unless the lease is
13 renewed.

14 b. If, at any time, the sponsoring institution of higher education
15 or the authority determines that a new business no longer satisfies
16 any of the eligibility criteria specified in section 12 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill), the
18 sponsoring institution of higher education shall recommend to the
19 authority that the authority terminate, or the authority on the
20 authority's own initiative shall immediately terminate, a new
21 business's participation in the Innovate New Jersey Program. The
22 business shall be notified of the termination by a method which
23 allows for verification of receipt of the termination notice. A copy
24 of the termination notice shall be sent to the director. Upon
25 termination, the new business shall not be eligible for the tax
26 benefits specified in sections 16 and 17 of P.L. , c. (C.)
27 (pending before the Legislature as this bill) for that or any future
28 taxable year. Upon termination, the lease or contract between the
29 sponsoring institution of higher education and the new business
30 shall be rescinded, effective 30 days after the authority mailed its
31 termination notice to the new business and the land or space and
32 any improvements thereon shall revert to the sponsoring institution
33 of higher education.

34
35 11. (New section) a. Each institution of higher education
36 participating in the Innovate New Jersey Program shall adopt a
37 conflict of interest policy. The conflict of interest policy shall
38 provide, as the policy relates to the program:

39 (1) as a general principle, that service as an official of the
40 institution of higher education shall not be used as a means for
41 private benefit or inurement for the official, a relative thereof, or
42 any entity in which the official, or relative thereof, has a business
43 interest;

44 (2) an official who is a vendor or employee of a vendor of goods
45 or services to the institution of higher education, or who has a
46 business interest in the vendor, or whose relative has a business
47 interest in the vendor, shall not vote on, or participate in the

1 administration by the institution of higher education, as the case
2 may be, of any transaction with the vendor; and

3 (3) upon becoming aware of an actual or potential conflict of
4 interest, an official shall advise the president or chief executive
5 officer of the institution of higher education, as the case may be, of
6 the official's or a relative's business interest in any existing or
7 proposed vendor with the institution of higher education. Each
8 institution of higher education shall maintain a written record of all
9 disclosures of actual or potential conflicts of interest made pursuant
10 to this subsection, and shall report a disclosure, on a calendar year
11 basis, by January 31st of each year, to the auditor working on behalf
12 of the institution of higher education. The institution of higher
13 education shall forward the report to the authority and the Secretary
14 of Higher Education. The authority shall make the report available
15 to the public.

16 b. For the purposes of a conflict of interest policy adopted
17 pursuant to subsection a. of this section:

18 (1) an official of an institution of higher education has a
19 business interest in an entity if the individual: (a) owns or controls
20 10 percent or more of the stock of the entity or one percent in the
21 case of an entity which is regularly traded on an established
22 securities exchange; or (b) serves as an officer, director, or partner
23 of the entity;

24 (2) a relative of an official of an institution of higher education
25 means any person living in the same household as the individual
26 and any person who is a direct descendant of that individual's
27 grandparents or the spouse of the descendant; and

28 (3) an official of an institution of higher education means an
29 employee at the level of dean and above as well as any other
30 employee with decision-making authority over the Innovate New
31 Jersey Program.

32

33 12. (New section) In order to participate in the Innovate New
34 Jersey Program, a new business shall satisfy the following criteria:

35 a. A new business shall be:

36 (1) in the formative stage of development; or

37 (2) engaged in the design, development, and introduction of new
38 biotechnology, information technology, re-manufacturing, advanced
39 materials, processing, engineering or electronic technology
40 products, or innovative manufacturing processes, and meet any
41 other requirements for a high technology business as the authority
42 shall develop.

43 b. The mission and activities of the new business shall align
44 with or further the academic mission of the institutions of higher
45 education sponsoring the tax-free New Jersey area in which the new
46 business seeks to locate, and the new business's participation in the
47 program shall have positive community and economic benefits as
48 determined by the board.

1 c. The new business shall demonstrate that the new business
2 will, in its first year of operation, create net new jobs. After its first
3 year of operation, the new business shall maintain net new jobs.
4 The average number of employees of the new business and its
5 related persons in the State during the year shall equal or exceed the
6 sum of:

7 (1) the average number of employees of the new business and its
8 related persons in the State during the year immediately preceding
9 the year in which the new business submits its application to locate
10 in a tax-free New Jersey area; and

11 (2) net new jobs of the new business in the tax-free New Jersey
12 area during the year.

13 The average number of employees of the new business and its
14 related persons in the State shall be determined by adding together
15 the total number of employees of the new business and its related
16 persons in the State on March 31st, June 30th, September 30th, and
17 December 31st and dividing the total by the number of those dates
18 occurring within that year.

19 d. Except as provided in subsections h. and i. of this section, at
20 the time a new business submits its application for the Innovate
21 New Jersey Program, the new business shall be a new business to
22 the State.

23 e. The new business may be organized as a corporation, a
24 partnership, limited liability company, or a sole proprietorship.

25 f. Upon completion of its first year in the Innovate New Jersey
26 Program and thereafter, the new business shall complete and file the
27 annual report required under section 19 of P.L. , c. (C.)
28 (pending before the Legislature as this bill).

29 g. Except as provided in subsections h. and i. of this section,
30 the new business shall not be engaged in a line of business that is
31 currently or was previously conducted by the new business or a
32 related person in the last five years in this State.

33 h. If a business does not satisfy the eligibility standard set forth
34 in subsections d. or g. of this section, because at one point in time
35 the business operated in the State but moved its operations out of
36 the State on or before the effective date of P.L. , c. (C.)
37 (pending before the Legislature as this bill), the authority shall grant
38 that business permission to apply to participate in the Innovate New
39 Jersey Program if the authority determines that the business has
40 demonstrated that it will substantially restore the jobs in the State
41 that the business previously moved out of State.

42 i. If a business seeks to expand its current operations in the
43 State into a tax-free New Jersey area but the business does not
44 qualify as a new business because it does not satisfy the criteria in
45 subsection g. of this section, the authority shall grant the business
46 permission to apply to participate in the Innovate New Jersey
47 Program if the authority determines that the business has
48 demonstrated that it will create net new jobs in the tax-free New

1 Jersey area and that the business or any related person has not
2 eliminated any jobs in the State in connection with this expansion.

3 j. A new business shall be in compliance with all State and
4 federal worker protection and environmental laws and regulations.

5 k. A new business shall not owe past due State or federal taxes
6 or local property taxes.

7 l. A business that has successfully completed residency in a
8 business incubation facility, subject to approval of the authority,
9 may apply to participate in the Innovate New Jersey Program
10 provided that the business locates in a tax-free New Jersey area,
11 notwithstanding the fact that the business may not constitute a new
12 business in the State.

13

14 13. (New section) a. A new business submitting an application
15 for approval into the Innovate New Jersey program, as part of the
16 application, shall:

17 (1) agree to allow the director to share its tax information with
18 the authority and the sponsoring institution of higher education;

19 (2) agree to allow the Department of Labor and Workforce
20 Development to share its employer information with the authority
21 and the sponsoring institution of higher education;

22 (3) allow the authority and the sponsoring institution of higher
23 education access to any and all books and records the authority or
24 sponsoring institution of higher education may require to monitor
25 compliance;

26 (4) include performance benchmarks, including the number of
27 net new jobs that shall be created, the schedule for creating those
28 jobs, and details on job titles and expected salaries;

29 (5) provide the following information to the authority and
30 sponsoring institution of higher education upon request:

31 (a) the prior three years of federal and State income or franchise
32 tax returns, unemployment insurance returns, real property tax bills,
33 and audited financial statements; and

34 (b) the employer identification or social security numbers for all
35 related persons to the new business, including those of any
36 members of a limited liability company or partners in a partnership;

37 (6) provide a clear and detailed presentation of all related
38 persons to the new business to assure the authority that jobs are not
39 being shifted within the State; and

40 (7) certify, under penalty of perjury, that the new business is in
41 substantial compliance with all environmental, worker protection,
42 and local, State, and federal tax laws, and that it satisfies all the
43 eligibility requirements to participate in the program.

44 b. The application shall specify the consequences for failure to
45 meet the performance benchmarks, as determined by the new
46 business and the sponsoring institution of higher education,
47 including one or more of the following consequences:

1 (1) the suspension of the new business's participation in the
2 Innovate New Jersey Program for one or more tax years as specified
3 in the application;

4 (2) the termination of the new business's participation in the
5 program; or

6 (3) the proportional recovery of tax benefits awarded under the
7 program as specified in section 20 of P.L. , c. (C.) (pending
8 before the Legislature as this bill).

9
10 14. (New section) The authority and the director shall disclose
11 publicly the names and addresses of every new business located
12 within a tax-free New Jersey area. The authority and the director
13 shall make available to the public and include in the annual report
14 required pursuant to section 19 of P.L. , c. (C.) (pending
15 before the Legislature as this bill) any other information contained
16 in a new business's application and annual report, including the
17 projected number of net new jobs to be created, as the authority
18 determines is relevant and necessary to evaluate the success of the
19 Innovate New Jersey Program.

20
21 15. (New section) The following types of businesses are
22 prohibited from participating in the Innovate New Jersey Program.

- 23 a. retail and wholesale businesses;
24 b. restaurants;
25 c. real estate brokers;
26 d. law firms;
27 e. medical or dental practices;
28 f. real estate management companies;
29 g. hospitality-related businesses;
30 h. finance and financial services;
31 i. businesses providing personal services;
32 j. businesses providing business administrative or support
33 services, unless the business has received permission from the
34 authority to apply to participate in the program upon demonstration
35 that the business will create no fewer than 100 net new jobs in a
36 tax-free New Jersey area;
37 k. accounting firms; and
38 l. businesses providing utility services or are otherwise
39 engaged in the generation or distribution of electricity, the
40 distribution of natural gas, or the production of steam associated
41 with the generation of electricity.

42
43 16. (New section) a. A new business that is accepted into the
44 Innovate New Jersey Program and locates in a tax-free New Jersey
45 area shall be exempt for a period of five years, or for the duration of
46 the time that the new business is participating in the program,
47 whichever is shorter, from the following taxes as applicable to the
48 new business:

1 (1) the tax imposed pursuant to section 5 of P.L.1945, c.162
2 (C.54:10A-5);

3 (2) the tax imposed pursuant to the “New Jersey Gross Income
4 Tax Act,” N.J.S.54A:1-1 et seq.;

5 (3) the tax imposed pursuant to sections 2 and 3 of P.L.1945,
6 c.132 (C.54:18A-2 and 54:18A-3);

7 (4) the tax imposed pursuant to section 1 of P.L.1950, c.231
8 (C.17:32-15);

9 (5) the tax imposed pursuant to N.J.S.17B:23-5.

10 b. A new business that is accepted into the program and locates
11 in a tax-free New Jersey area shall be exempt for a period of 10
12 years, or for the duration of the time that the new business is
13 participating in the program, whichever is shorter, from the tax
14 imposed pursuant to the “Sales and Use Tax Act,” P.L.1966, c.30
15 (C.54:32B-1 et seq.).
16

17 17. (New section) The land, structures, facilities, and buildings
18 wherein a new business, as that term is defined pursuant to section
19 2 of P.L. , c. (C.) (pending before the Legislature as this
20 bill), that is approved for participation the Innovate New Jersey
21 Program established pursuant to P.L. , c. (C.) (pending
22 before the Legislature as this bill) and locates in a tax-free New
23 Jersey area, as that term is defined pursuant to section 2 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill), shall be
25 exempt for a period of five years, or for the duration of the time that
26 the new business is participating in the program, whichever is
27 shorter, from taxation as real property under chapter 4 of Title 54 of
28 the Revised Statutes, for as long as the new business remains in the
29 program and within a tax-free New Jersey area.
30

31 18. (New section) a. To implement the Innovate New Jersey
32 Program, the authority shall establish and maintain a special non-
33 lapsing, revolving fund to be known as the “Innovate New Jersey
34 Grant Fund” for the purpose of providing grants to sponsoring
35 institutions of higher education to be used for start-up costs related
36 to necessary tenant fit-up improvements to the facilities of a
37 sponsoring institution of higher education, and for consulting
38 service and technical assistance to new businesses within a business
39 incubation facility.

40 b. The fund may be credited with:

41 (1) moneys made available by the authority for the purpose of
42 the fund; and

43 (2) moneys received by the authority from any public or private
44 donations.

45 c. The Innovate New Jersey Board shall consider a request for
46 a grant from the fund in a manner established by the board. The
47 amount of any grant shall not exceed \$125,000 a year for the first

1 three years following board approval for a business incubation
2 facility approved by the board.

3
4 19. (New section) a. The authority shall prepare an annual
5 report on the Innovate New Jersey Program and deliver the report to
6 the Governor and, pursuant to section 2 of P.L.1991, c.164
7 (C.52:14-19.1), to the Legislature. The report shall include the
8 number of business applicants, the number of new businesses
9 approved, the names and addresses of the new businesses located
10 within a tax-free New Jersey area, the total amount of benefits
11 distributed, the benefits received per new business, the number of
12 net new jobs created, the number of net new jobs created per new
13 business, the amount of new investment per new business, the types
14 of industries represented, and any other information as the authority
15 determines is necessary to evaluate the progress of the Innovate
16 New Jersey Program.

17 b. The authority shall create an Internet website for the
18 program which shall include, but not be limited to, the following
19 information:

20 (1) a list of the resources available to potential new businesses;

21 (2) a complete listing of business incubation facilities located in
22 the State;

23 (3) a description of the economic incentives for New Jersey-
24 based businesses with the criteria for each program; and

25 (4) the contact information for the authority and the Business
26 Action Center.

27 c. Any new business located in a tax-free New Jersey area shall
28 submit an annual report to the authority in a form and manner and
29 with any information as prescribed by the authority in consultation
30 with the director. The information shall be sufficient for the
31 authority and the director to: (1) monitor the continued eligibility of
32 the new business and its employees to participate in the program
33 and receive the tax benefits described in sections 16 and 17 of
34 P.L. , c. (C.) (pending before the Legislature as this bill);
35 (2) evaluate the progress of the program; and (3) prepare the annual
36 report required by subsection a. of this subsection. The annual
37 report shall include information regarding the wages paid by a new
38 business during the year to its employees employed in the net new
39 jobs created and maintained in the tax-free New Jersey area.

40
41 20. (New section) If the authority determines that any business
42 located in a tax-free New Jersey area and participating in the
43 Innovate New Jersey Program has acted fraudulently in connection
44 with its participation in the program, the business shall be:

45 a. immediately terminated from the program;

46 b. subject to applicable criminal penalties, including, but not
47 limited to, the crime of offering a false instrument for filing
48 pursuant to N.J.S.2C:21-3; and

1 c. required in that year to pay back the total value of the tax
2 benefits described in sections 16 and 17 of P.L. , c. (C.)
3 (pending before the Legislature as this bill) that the business
4 received and that the employees of the business have received up to
5 the date of that finding. The amount required to be paid back shall
6 be reported on any form the director may require.
7

8 21. (New section) The authority, in consultation with the
9 Innovate New Jersey Board and the Secretary of Higher Education,
10 shall adopt rules and regulations, pursuant to the "Administrative
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
12 implement the provisions of P.L. , c. (C.) (pending before
13 the Legislature as this bill), including, but not limited to,
14 establishing the process for the submission of plans and approvals
15 of tax-free New Jersey areas and the eligibility criteria that shall be
16 applied in evaluating those plans and approvals, establishing the
17 process for the evaluation and possible rejection of applications, the
18 eligibility criteria that shall be applied in evaluating applications,
19 and the process for terminations from the Innovate New Jersey
20 Program and administrative appeals of any terminations.
21

22 22. R.S.54:4-3.6 is amended to read as follows:

23 54:4-3.6. The following property shall be exempt from taxation
24 under this chapter: all buildings actually used for colleges, schools,
25 academies or seminaries, provided that if any portion of **【such】**
26 those buildings are leased to profit-making organizations or
27 otherwise used for purposes which are not themselves exempt from
28 taxation, **【said】** that portion, except any building or portion thereof
29 within a tax-free New Jersey area established pursuant to P.L. ,
30 c. (C.) (pending before the Legislature as this bill), shall be
31 subject to taxation and the remaining portion only shall be exempt;
32 all buildings actually used for historical societies, associations, or
33 exhibitions, when owned by the State, county, or any political
34 subdivision thereof or when located on land owned by an
35 educational institution which derives its primary support from State
36 revenue; all buildings actually and exclusively used for public
37 libraries, **【asylum】** asylums, or schools for adults and children with
38 intellectual disabilities; all buildings used exclusively by any
39 association or corporation formed for the purpose and actually
40 engaged in the work of preventing cruelty to animals; all buildings
41 actually and exclusively used and owned by volunteer first-aid
42 squads, which squads are or shall be incorporated as associations
43 not for pecuniary profit; all buildings actually used in the work of
44 associations and corporations organized exclusively for the moral
45 and mental improvement of men, women, and children, provided
46 that if any portion of a building used for that purpose is leased to
47 profit-making organizations or is otherwise used for purposes which
48 are not themselves exempt from taxation, that portion shall be

1 subject to taxation and the remaining portion only shall be exempt;
2 all buildings actually used in the work of associations and
3 corporations organized exclusively for religious purposes, including
4 religious worship, or charitable purposes, provided that if any
5 portion of a building used for that purpose is leased to a profit-
6 making organization or is otherwise used for purposes which are not
7 themselves exempt from taxation, that portion shall be subject to
8 taxation and the remaining portion shall be exempt from taxation,
9 and provided further that if any portion of a building is used for a
10 different exempt use by an exempt entity, that portion shall also be
11 exempt from taxation; all buildings actually used in the work of
12 associations and corporations organized exclusively for hospital
13 purposes, provided that if any portion of a building used for hospital
14 purposes is leased to profit-making organizations or otherwise used
15 for purposes which are not themselves exempt from taxation, that
16 portion shall be subject to taxation and the remaining portion only
17 shall be exempt; all buildings owned or held by an association or
18 corporation created for the purpose of holding the title to **【such】**
19 those buildings as are actually and exclusively used in the work of
20 two or more associations or corporations organized exclusively for
21 the moral and mental improvement of men, women, and children;
22 all buildings owned by a corporation created under or otherwise
23 subject to the provisions of Title 15 of the Revised Statutes or Title
24 15A of the New Jersey Statutes and actually and exclusively used in
25 the work of one or more associations or corporations organized
26 exclusively for charitable or religious purposes, which associations
27 or corporations may or may not pay rent for the use of the premises
28 or the portions of the premises used by them; the buildings, not
29 exceeding two, actually occupied as a parsonage by the officiating
30 clergymen of any religious corporation of this State, together with
31 the accessory buildings located on the same premises; the land
32 whereon any of the buildings hereinbefore mentioned are erected,
33 and which may be necessary for the fair enjoyment thereof, and
34 which is devoted to the purposes above mentioned and to no other
35 purpose and does not exceed five acres in extent; the furniture and
36 personal property in **【said】** those buildings if used in and devoted
37 to the purposes above mentioned; all property owned and used by
38 any nonprofit corporation in connection with its curriculum, work,
39 care, treatment, and study of men, women, or children with
40 intellectual disabilities shall also be exempt from taxation, provided
41 that **【such】** the nonprofit corporation conducts and maintains
42 research or professional training facilities for the care and training
43 of men, women, or children with intellectual disabilities; provided,
44 in case of all the foregoing, the buildings, or the lands on which
45 they stand, or the associations, corporations, or institutions using
46 and occupying them as aforesaid, are not conducted for profit,
47 except that the exemption of the buildings and lands used for
48 charitable, benevolent, or religious purposes shall extend to cases

1 where the charitable, benevolent, or religious work therein carried
2 on is supported partly by fees and charges received from or on
3 behalf of beneficiaries using or occupying the buildings; provided
4 the building is wholly controlled by and the entire income
5 therefrom is used for **【said】** those charitable, benevolent, or
6 religious purposes; and any tract of land purchased pursuant to
7 subsection (n) of section 21 of P.L.1971, c.199 (C.40A:12-21), and
8 located within a municipality, actually used for the cultivation and
9 sale of fresh fruits and vegetables and owned by a duly incorporated
10 nonprofit organization or association which includes among its
11 principal purposes the cultivation and sale of fresh fruits and
12 vegetables, other than a political, partisan, sectarian,
13 denominational, or religious organization or association. The
14 foregoing exemption shall apply only where the association,
15 corporation, or institution claiming the exemption owns the
16 property in question and is incorporated or organized under the laws
17 of this State and authorized to carry out the purposes on account of
18 which the exemption is claimed or where an educational institution,
19 as provided herein, has leased **【said】** the property in question to a
20 historical society or association or to a corporation organized for
21 **【such】** those purposes and created under or otherwise subject to the
22 provisions of Title 15 of the Revised Statutes or Title 15A of the
23 New Jersey Statutes.

24 As used in this section, "hospital purposes" includes health care
25 facilities for the elderly, such as: nursing homes; residential health
26 care facilities; assisted living residences; facilities with a Class C
27 license pursuant to the "Rooming and Boarding House Act of
28 1979," P.L.1979, c.496 (C.55:13B-1 et al.) **【,】** ; similar facilities
29 that provide medical, nursing, or personal care services to their
30 residents; and that portion of the central administrative or service
31 facility of a continuing care retirement community that is
32 reasonably allocable as a health care facility for the elderly.

33 (cf: P.L.2011, c.171, s.4)

34
35 23. This act shall take effect immediately, but shall remain
36 inoperative for 60 days following the date of enactment.

37 38 39 STATEMENT

40
41 This bill, entitled the "Innovate New Jersey Act," creates the
42 Innovate New Jersey Program (program) to allow public and private
43 colleges, universities, and community colleges in New Jersey to be
44 able to apply to have vacant space or land on their campuses
45 designated as tax-free areas for the purpose of creating incubators
46 for certain new and expanding businesses. The area designated for
47 a business incubator may be no more than 150,000 square feet at
48 any one college or university and no more than 1.5 million square

1 feet of business incubator space authorized for the State.
2 Participating colleges or universities may not utilize space that is
3 currently being used for academic purposes to open a business
4 incubator. Business incubator programs which currently exist and
5 meet the program's qualifications criteria may apply for approval
6 under the program.

7 The program transforms vacant land and building space on the
8 campuses of institutions of higher education into a "tax-free New
9 Jersey area" (tax-free area) for qualifying businesses. This creates
10 the opportunity for businesses to engage in commerce in a zero tax
11 environment and allows businesses to leverage the assets of the
12 college or university. Under the bill, these businesses will not be
13 subject to State corporate or income tax or franchise fees or any
14 local property taxes for five years, and will not have any sales tax
15 liability for 10 years.

16 Applications for acceptance into the program are to be decided
17 by an Innovate New Jersey Board (board) to be established within
18 the Economic Development Authority (EDA). The board consists
19 of five members, one member each designated by the Governor, the
20 Senate President, the Assembly Speaker, the Senate Minority
21 Leader, and the Assembly Minority Leader. The board is to decide
22 which colleges or universities may allocate tax-free space for a
23 business incubator and which businesses are eligible to locate there.

24 A new business accepted into the program is exempt for five
25 years, or for the duration of the time that the new business is
26 participating in the program, whichever is shorter, from: 1) the
27 corporation business tax; 2) the gross income tax; 3) premiums
28 taxes on domestic and foreign insurers; and 4) local property taxes.
29 Further, the new business is exempt for 10 years, or for the duration
30 of the time that the new business is participating in the program,
31 whichever is shorter, from the sales and use tax.

32 In order to locate in a tax-free area: 1) A new business is to be in
33 the formative stage of development or engaged in the design,
34 development, and introduction of new biotechnology, information
35 technology, remanufacturing, advanced materials, processing,
36 engineering, or electronic technology products, or innovative
37 manufacturing processes, and meet any other requirements for a
38 high technology business as the authority shall develop; 2) the
39 missions and activities of the business are to align with, or further
40 the academic mission of the university or college in the area in
41 which the business seeks to locate; 3) a business will be required to
42 be a new business in the State or an expanding business that creates
43 net new jobs pursuant to a net-benefits test requiring that the
44 business continue to maintain net new jobs and employment
45 numbers of the business and its related companies throughout the
46 State while in the program; and 4) the business's participation in the
47 program is to have positive community and economic effects.

1 The bill establishes an “Innovate New Jersey Grant Fund” (fund)
2 to provide grants to assist selected colleges or universities with
3 start-up costs related to necessary capital improvements to college
4 or university facilities, and service improvement including
5 consulting and technical assistance in order to open and operate an
6 incubator. Grants are to be up to \$125,000 a year for the first three
7 years following board approval for inclusion in the program.

8 A business that does not meet its net new job creation
9 performance standards is subject to a proportionate reduction of
10 benefits, suspension, termination, or any of the above. In the case
11 of a business that acted fraudulently, the business would be
12 immediately terminated from the program, be subject to applicable
13 criminal penalties including the crime of offering a false instrument
14 for filing in the first degree, and be required to pay back all tax
15 benefits that the company and its employees have received.

16 In administering the program, the EDA is to create a website for
17 the program to include, but not be limited to: 1) a list of the
18 resources available to potential new businesses; 2) a complete
19 listing of business incubator facilities located in the State; 3) a
20 description of the economic incentives for New Jersey-based
21 businesses with the criteria for each program; and 4) the contact
22 information for the authority and the Business Action Center.