

SENATE, No. 3295

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 16, 2020

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

SYNOPSIS

"New Jersey Economic Recovery Act of 2020"; provides for administration of programs and policies related to jobs, property development, food deserts, community partnerships, small and early stage businesses, State procurement, wind energy, and film production, and makes an appropriation.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/17/2020)

1 AN ACT concerning State economic development policy, and
2 amending and supplementing various parts of the statutory law,
3 and making an appropriation.
4

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

8 1. (New section) P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be known and may be cited as the "New
10 Jersey Economic Recovery Act of 2020."
11

12 2. (New section) Sections 2 through 8 of P.L. , c. (C.)
13 (pending before the Legislature as this bill) shall be known and may
14 be cited as the "Historic Property Reinvestment Act."
15

16 3. (New section) As used in sections 2 through 8 of P.L. , c.
17 (C.) (pending before the Legislature as this bill):

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

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

24 "Cost of rehabilitation" means the consideration given, valued in
25 money, whether given in money or otherwise, for the materials and
26 services which constitute the rehabilitation.

27 "Director" means the Director of the Division of Taxation in the
28 Department of the Treasury.

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

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

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

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

40 "Project financing gap" means the part of the total cost of
41 rehabilitation, including reasonable and appropriate return on
42 investment, that remains to be financed after all other sources of
43 capital have been accounted for, including, but not limited to,
44 developer contributed capital, which shall not be less than 20 percent
45 of the total cost of rehabilitation, and investor or financial entity

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 capital or loans for which the developer, after making all good faith
2 efforts to raise additional capital, certifies that additional capital
3 cannot be raised from other sources.

4 "Property" means a structure, including its site improvements and
5 landscape features, assessed as real property, and used for: a
6 commercial purpose; a residential rental purpose, provided the
7 structure contains at least four dwelling units; or any combination
8 thereof.

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

11 (a) (i) individually listed, or located in a district listed on the
12 National Register of Historic Places in accordance with the with the
13 provisions of chapter 3021 of Title 54, United States Code (54 U.S.C.
14 s.302101 et seq.), or on the New Jersey Register of Historic Places
15 pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or individually
16 designated, or located in a district designated, by the Pinelands
17 Commission as a historic resource of significance to the Pinelands in
18 accordance with the Pinelands comprehensive management plan
19 adopted pursuant to the "Pinelands Protection Act," P.L.1979, c.111
20 (C.13:18A-1 et seq.), and

21 (ii) if located within a district, certified by either the officer or the
22 Pinelands Commission, as appropriate, as contributing to the historic
23 significance of the district; or

24 (b) (i) individually identified or registered, or located in a district
25 composed of properties identified or registered, for protection as
26 significant historic resources in accordance with criteria established
27 by a municipality in which the property or district is located if the
28 criteria for identification or registration has been approved by the
29 officer as suitable for substantially achieving the purpose of
30 preserving and rehabilitating buildings of historic significance within
31 the jurisdiction of the municipality, and

32 (ii) if located within a district, certified by the officer as
33 contributing to the historic significance of the district.

34 "Rehabilitation" means the repair or reconstruction of the exterior
35 or interior of a qualified property or transformative project to make
36 an efficient contemporary use possible while preserving the portions
37 or features of the property that have significant historical,
38 architectural, and cultural values.

39 "Rehabilitation of the interior of the qualified property or
40 transformative project" means the repair or reconstruction of the
41 structural or substrate components and electrical, plumbing, and
42 heating components within the interior of a qualified property or
43 transformative project.

44 "Selected rehabilitation period" means a period of 24 months if
45 the beginning of such period is chosen by the business entity during
46 which, or parts of which, a rehabilitation is occurring, or a period of
47 60 months if a rehabilitation is reasonably expected to be completed
48 in distinct phases set forth in written architectural plans and

1 specifications completed before or during the physical work on the
2 rehabilitation.

3 “Transformative project” means a property that is:

4 (a) an income producing property, not including a residential
5 property, whose rehabilitation the authority determines will generate
6 substantial increases in State revenues through the creation of
7 increased business activity within the surrounding area;

8 (b) individually listed on the New Jersey Register of Historic
9 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and
10 which, before the enactment of P.L. , c. (C.) (pending before
11 the Legislature as this bill), received a Determination of Eligibility
12 from the Keeper of the National Register of Historic Places in
13 accordance with the provisions of Part 60 of Title 36 of the Code of
14 Federal Regulations;

15 (c) located within a one-half mile radius of the center point of a
16 transit village, as designated by the New Jersey Department of
17 Transportation; and

18 (d) located within a city of the first class, as classified under
19 N.J.S.40A:6-4.
20

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

43 (2) The prevailing wage requirements shall apply to projects that
44 are allowed a tax credit in excess of \$500,000, and shall apply at a
45 qualified property or transformative project during the selected
46 rehabilitation period. In the event a qualified property or
47 transformative project, or the aggregate of all qualified properties and
48 transformative projects approved for awards under the program,

1 constitute a lease of more than 55 percent of a facility, the prevailing
2 wage requirements shall apply to the entire facility.

3 (3) Prior to approval of an application by the authority, the
4 Department of Labor and Workforce Development, the Department
5 of Environmental Protection, and the Department of the Treasury
6 shall each report to the authority whether the business entity is in
7 substantial good standing with the respective department, or has
8 entered into an agreement with the respective department that
9 includes a practical corrective action plan for the business entity. The
10 authority may also contract with an independent third party to
11 perform a background check on the business entity. Following
12 approval of an application by the authority, but prior to the start of
13 any construction or rehabilitation at the qualified property or
14 transformative project, the authority shall enter into a rehabilitation
15 agreement with the business entity. The authority shall negotiate the
16 terms and conditions of the rehabilitation agreement on behalf of the
17 State, but the terms shall require the business entity to consent to the
18 disclosure of tax expenditure information as described in paragraph
19 (8) of subsection b. of section 1 of P.L.2009, c.189 (C.52:27B-20a).

20 (4) A rehabilitation project shall be eligible for a tax credit only
21 if the business entity demonstrates to the authority at the time of
22 application that:

23 (a) without the tax credit, the rehabilitation project is not
24 economically feasible; and

25 (b) a project financing gap exists.

26 b. A business entity may claim a credit under this section during
27 the accounting or privilege period: (1) in which it makes the final
28 payment for the cost of the rehabilitation if the business entity has
29 chosen a selected rehabilitation period of 24 months; or (2) in which
30 a distinct project phase of the rehabilitation is completed if the
31 business entity has chosen a selected rehabilitation period of 60
32 months. The credit may be claimed against any State tax, listed in
33 paragraph (1) of subsection a. of this section, liability otherwise due
34 after any other credits permitted pursuant to law have been applied.
35 The amount of credit claimed in an accounting or privilege period
36 that cannot be applied for that accounting or privilege period due to
37 limitations in this section may be transferred pursuant to section 5 of
38 P.L. , c. (C.) (pending before the Legislature as this bill) or
39 carried over, if necessary, to the nine accounting or privilege periods
40 following the accounting or privilege period for which the credit was
41 allowed.

42 c. A business entity shall submit to the authority satisfactory
43 evidence of the actual cost of rehabilitation, as certified by a certified
44 public accountant, evidence of completion of the rehabilitation or
45 phase, and a certification that all information provided by the
46 business entity to the authority is true, including information
47 contained in the application, the rehabilitation agreement, any
48 amendment to the rehabilitation agreement, and any other

1 information submitted by the business entity to the authority pursuant
2 to sections 2 through 8 of P.L. , c. (C.) (pending before the
3 Legislature as this bill). The business entity, or an authorized agent
4 of the business entity, shall certify under the penalty of perjury that
5 the information provided pursuant to this subsection is true.

6
7 5. (New section) a. The authority shall, in cooperation with the
8 director, establish and administer a corporation business tax credit
9 transfer certificate program and an insurance premiums tax credit
10 transfer certificate program to enable business entities with unused,
11 otherwise allowable amounts of tax credits issued pursuant to
12 sections 2 through 8 of P.L. , c. (C.) (pending before the
13 Legislature as this bill) to exchange these credits, in whole or in part,
14 for private financial assistance prior to the expiration of the tax
15 credit.

16 A certificate issued by the director shall include a statement
17 waiving the rights of the business entity to which the tax credit has
18 been granted to claim any amount of remaining credit against any tax
19 liability.

20 b. A business entity holding an unused, otherwise allowable tax
21 credit issued pursuant to sections 2 through 8 of P.L. , c. (C.)
22 (pending before the Legislature as this bill) may apply to the director
23 for a tax credit transfer certificate pursuant to subsection a. of this
24 section. Upon receipt thereof, the business entity may sell or assign,
25 in full or in part, the tax credit transfer certificate to another taxpayer
26 in exchange for private financial assistance to be provided by the
27 purchaser or assignee of the tax credit transfer certificate to the seller
28 thereof. The developer shall not sell a tax credit transfer certificate
29 allowed under this section for consideration received by the
30 developer of less than 85 percent of the transferred credit amount
31 before considering any further discounting to present value which
32 shall be permitted, except a developer of a residential project
33 consisting of newly-constructed residential units that has received
34 federal low income housing tax credits under 26 U.S.C.
35 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
36 consideration of no less than 75 percent subject to the submission of
37 a plan to the authority and the New Jersey Housing and Mortgage
38 Finance Agency to use the proceeds derived from the assignment of
39 tax credits to complete the residential project. The purchaser or
40 assignee of the tax credit transfer certificate may apply the face value
41 of the tax credit transfer certificate acquired against the purchaser's
42 or assignee's applicable tax liability by claiming the tax credit on the
43 purchaser's or assignee's corporation business tax or insurance
44 premiums tax return with the corresponding tax credit transfer
45 certificate accompanying the tax return. A purchaser or assignee of
46 a tax credit transfer certificate pursuant to this section shall not make
47 any subsequent transfers, assignments, or sales of the tax credit
48 transfer certificate.

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

- 4 (1) the name of the transferor;
5 (2) the name of the transferee;
6 (3) the value of the tax credit transfer certificate;
7 (4) the State tax against which the transferee may apply the tax
8 credit; and
9 (5) the consideration received by the transferor.

10
11 6. (New section) a. The authority shall, in consultation with the
12 officer and the director, promulgate rules and regulations in
13 accordance with the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.), as the officer deems necessary to
15 administer the provisions of sections 2 through 8 of P.L. , c.
16 (C.) (pending before the Legislature as this bill), including but
17 not limited to rules establishing administrative fees to implement the
18 provisions of sections 2 through 8 of P.L. , c. (C.) (pending
19 before the Legislature as this bill), setting of an annual application
20 submission date, requiring annual reporting by each business entity
21 that receive a tax credit pursuant to sections 2 through 8 of P.L. , c.
22 (C.) (pending before the Legislature as this bill), and requiring
23 those reports to include certifications by the Department of Labor and
24 Workforce Development, the Department of Environmental
25 Protection, and the Department of the Treasury that the business
26 entity, and any contractors or subcontractors performing work at the
27 qualified property or transformative project, are in substantial good
28 standing with the respective department, or has entered into an
29 agreement with the respective department that includes a practical
30 corrective action plan for the business entity. The rules and
31 regulations adopted pursuant to this section shall also include a
32 provision to require that business entities forfeit all tax credits
33 awarded in any year in which any such report is not received, and to
34 allow the authority to extend, in individual cases, the deadline for any
35 annual reporting or certification requirement established pursuant to
36 this section.

37 b. For every tax credit allowed pursuant to section 4 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill), the
39 authority, in consultation with the officer, shall certify to the director:
40 the total cost of rehabilitation; that the property meets the definition
41 of qualified property or transformative project, as applicable; and that
42 the rehabilitation has been completed in substantial compliance with
43 the requirements of the Secretary of the Interior's Standards for
44 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal
45 Regulations. The business entity shall attach the certification to the
46 tax return on which the business entity claims the credit.

47 c. (1) The total amount of credits approved by the authority
48 pursuant to sections 2 through 8 of P.L. , c. (C.) (pending

1 before the Legislature as this bill) shall not exceed the limitations set
 2 forth in section 98 of P.L. , c. (C.) (pending before the
 3 legislature as this bill).. If the authority approves less than the total
 4 amount of tax credits authorized pursuant to this subsection in a fiscal
 5 year, the remaining amount, plus any amounts remaining from
 6 previous fiscal years, shall be added to the limit of subsequent fiscal
 7 years until that amount of tax credits are claimed or allowed. Any
 8 unapproved, uncertified, or recaptured portion of tax credits during
 9 any fiscal year may be carried over and reallocated in succeeding
 10 years.

11 (2) Notwithstanding the provisions of paragraph (1) of this
 12 subsection and section 98 of P.L. , c. (C.) (pending before
 13 the legislature as this bill) to the contrary, the authority may approve
 14 tax credits, pursuant to sections 2 through 8 of P.L. , c. (C.)
 15 (pending before the Legislature as this bill), for the rehabilitation of
 16 a transformative project in an amount that causes the total amount of
 17 credits approved during the fiscal year to exceed the limitations set
 18 forth in section 98 of P.L. , c. (C.) (pending before the
 19 legislature as this bill), provided that the amount of the excess shall
 20 be subtracted from the total amount of credits that may be approved
 21 by the authority in the subsequent fiscal year, and the amount of the
 22 excess shall not exceed 50 percent of the total tax credits otherwise
 23 authorized for the fiscal year.

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

32

33 7. (New section) a. The authority, in collaboration with the
 34 director, shall adopt rules for the recapture of an entire or partial tax
 35 credit amount allowed under sections 2 through 8 of P.L. ,
 36 c. (C.) (pending before the Legislature as this bill). The rules
 37 shall require the authority to notify the director of the recapture of an
 38 entire or partial tax credit amount. The recapture of funds shall be
 39 subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.
 40 and recaptured funds shall be deposited in the General Fund of the
 41 State.

42 b. If, before the end of five full years after the completion of the
 43 rehabilitation of the qualified property or transformative project, a
 44 developer that has received a tax credit pursuant to section 4 of
 45 P.L. , c. (C.) (pending before the Legislature as this bill)
 46 modifies the qualified property or transformative project so that it
 47 ceases to meet the requirements for the rehabilitation of a qualified
 48 property or transformative project as defined under the program or

1 ceases to meet the requirement of the rehabilitation agreement then
2 the tax credit allowed under the program shall be recaptured in
3 accordance with the rules adopted pursuant to subsection a. of this
4 section.

5 c. In the case of a business entity that has chosen a selected
6 rehabilitation period of 60 months, if the architectural plans change
7 in the course of the phased rehabilitation project so that the
8 rehabilitation of the qualified property or transformative project
9 would, upon the rehabilitation's completion, no longer qualify for a
10 tax credit pursuant to the requirements of sections 2 through 8 of
11 P.L. , c. (C.) (pending before the Legislature as this bill),
12 then the business entity's tax liability for that accounting or privilege
13 period shall be increased by the full amount of the tax credit that the
14 authority had previously granted upon the completion of a distinct
15 prior project phase that the business entity has applied against its tax
16 liability in a prior accounting or privilege period. Any portion of the
17 tax credit that the business entity has not yet used at the time of the
18 disallowance by the officer shall be deemed void.

19

20 8. (New section) On or before December 31 of the fourth year
21 following the effective date of sections 2 through 8 of P.L. , c.
22 (C.) (pending before the Legislature as this bill), the authority,
23 in consultation with the officer and the director, shall prepare and
24 submit a written report regarding the number and total monetary
25 amount of tax credits granted for the rehabilitation of qualified
26 properties or transformative projects pursuant to section 4 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill), the
28 geographical distribution of the credits granted, a summary of the tax
29 credit transfer program established pursuant to section 5 of P.L. ,
30 c. (C.) (pending before the Legislature as this bill), an
31 evaluation of the effectiveness of the tax credits provided pursuant to
32 sections 2 through 8 of P.L. , c. (C.) (pending before the
33 Legislature as this bill) in promoting the rehabilitation of historic
34 properties, recommendations for administrative or legislative
35 changes to increase the effectiveness of the program, and any other
36 information that the authority, the officer, or the director may deem
37 useful or appropriate. This report shall be submitted to the Governor
38 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
39 Legislature.

40

41 9. (New section) Sections 9 through 19 of P.L. , c. (C.)
42 (pending before the Legislature as this bill) shall be known and may
43 be cited as the "Brownfields Redevelopment Incentive Program Act."
44

45 10. (New section) As used in sections 9 through 19 of P.L. , c.
46 (C.) (pending before the Legislature as this bill):

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

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

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

8 "Contaminated building" means a structure upon which abatement
9 or removal of asbestos, polychlorinated biphenyls, contaminated
10 wood or paint, or other infrastructure remedial activities is necessary.

11 "Contamination" or "contaminant" means any discharged
12 hazardous substance as defined pursuant to section 3 of P.L.1976,
13 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to
14 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined
15 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or hazardous
16 building material, including, but not limited to, asbestos, lead paint,
17 and polychlorinated biphenyl.

18 "Department" means the Department of Environmental
19 Protection.

20 "Developer" means any person that enters or proposes to enter into
21 a redevelopment agreement with the authority pursuant to the
22 provisions of section 13 of P.L. , c. (C.) (pending before the
23 Legislature as this bill).

24 "Director" means the Director of the Division of Taxation in the
25 Department of the Treasury.

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

30 "Program" means the Brownfields Redevelopment Incentive
31 Program established by section 11 of P.L. , c. (C.) (pending
32 before the Legislature as this bill).

33 "Project financing gap" means the part of the total remediation
34 cost, including reasonable and appropriate return on investment, that
35 remains to be financed after all other sources of capital have been
36 accounted for, including, but not limited to, developer contributed
37 capital, which shall not be less than 20 percent of the total
38 remediation cost, and investor or financial entity capital or loans for
39 which the developer, after making all good faith efforts to raise
40 additional capital, certifies that additional capital cannot be raised
41 from other sources.

42 "Redevelopment agreement" means an agreement between the
43 authority and a developer under which the developer agrees to
44 perform any work or undertaking necessary for the remediation of a
45 contaminated site located at the site of the redevelopment project,
46 and for the clearance, development or redevelopment, construction,
47 or rehabilitation of any structure or improvement of commercial,

1 industrial, or public structures or improvements within an area of
2 land whereon a brownfield site is located.

3 "Redevelopment project" means a specific construction project or
4 improvement undertaken, pursuant to the terms of a redevelopment
5 agreement, by a developer within an area of land whereon a
6 brownfield site is located. A redevelopment project may involve
7 construction or improvement upon lands, buildings, improvements,
8 or real and personal property, or any interest therein, including lands
9 under water, riparian rights, space rights, and air rights, acquired,
10 owned, developed or redeveloped, constructed, reconstructed,
11 rehabilitated, or improved.

12 "Remediation" or "remediate" means all necessary actions to
13 investigate and clean up or respond to any known, suspected, or
14 threatened discharge of contaminants, including, as necessary, the
15 preliminary assessment, site investigation, remedial investigation,
16 and remedial action, as those terms are defined in section 23 of
17 P.L.1993, c.139 (C.58:10B-1); provided, however, "remediation" or
18 "remediate" shall not include the payment of compensation for
19 damage to, or loss of, natural resources.

20 "Remediation costs" means all reasonable costs associated with
21 the remediation of a contaminated site, except any costs incurred in
22 financing the remediation.

23

24 11. (New section) The Brownfields Redevelopment Incentive
25 Program is established as a program under the jurisdiction of the New
26 Jersey Economic Development Authority. The purpose of the
27 program is to compensate developers of redevelopment projects
28 located on brownfield sites for remediation costs. To implement this
29 purpose, the authority shall issue tax credits. The total value of tax
30 credits approved by the authority shall not exceed the limitations set
31 forth in section 98 of P.L. , c. (C.) (pending before the
32 legislature as this bill).; For the purpose of determining the
33 aggregate value of tax credits approved in a fiscal year, a tax credit
34 shall be deemed to have been approved at the time the authority
35 approves an application for an award of a tax credit. If the authority
36 approves less than the total amount of tax credits authorized pursuant
37 to this section in a fiscal year, the remaining amount, plus any
38 amounts remaining from previous fiscal years, shall be added to the
39 limit of subsequent fiscal years until that amount of tax credits are
40 claimed or allowed. Any unapproved, uncertified, or recaptured
41 portion of tax credits during any fiscal year may be carried over and
42 reallocated in succeeding years.

43

44 12. (New section) a. A developer seeking a tax credit for a
45 redevelopment project shall submit an application to the authority
46 and the department in a form and manner prescribed in regulations
47 adopted by the authority, in consultation with the department,

1 pursuant to the provisions of the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

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

13 (3) without the tax credit, the redevelopment project is not
14 economically feasible;

15 (4) a project financing gap exists;

16 (5) the developer has obtained and submitted to the authority a
17 letter evidencing support for the redevelopment project from the
18 governing body of the municipality in which the redevelopment
19 project is located; and

20 (6) each worker employed to perform remediation, or
21 construction at the redevelopment project shall be paid not less than
22 the prevailing wage rate for the worker's craft or trade, as determined
23 by the Commissioner of Labor and Workforce Development pursuant
24 to P.L.1963, c.150 (C.34:11-56.25 et seq.). The prevailing wage
25 requirements shall apply to redevelopment projects that are allowed
26 a tax credit in excess of \$500,000 for construction work through the
27 completion of the redevelopment project. In the event a
28 redevelopment project, or the aggregate of all redevelopment project
29 approved for an award under the program, constitute a lease of more
30 than 55 percent of a facility, the prevailing wage requirements shall
31 apply to the entire facility.

32 c. A redevelopment project that received a reimbursement
33 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
34 through 58:10B-31) shall not be eligible to apply for a tax credit
35 under the program. If the authority receives an application and
36 supporting documentation for approval of a reimbursement pursuant
37 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
38 58:10B-31) prior to the effective date of sections 9 through 19 of
39 P.L. , c. (C.) (pending before the Legislature as this bill),
40 then the authority may consider the application and award a tax credit
41 to a developer, provided that the authority shall take final action on
42 all applications for approval of a reimbursement pursuant to sections
43 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)
44 no later than July 1, 2019. No applications shall be submitted
45 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
46 through 58:10B-31) after the effective date sections 9 through 19 of
47 P.L. , c. (C.) (pending before the Legislature as this bill).

1 d. (1) Prior to approval of an application, the Department of
2 Labor and Workforce Development, the Department of
3 Environmental Protection, and the Department of the Treasury shall
4 each report to the chief executive officer of the authority whether the
5 developer is in substantial good standing with the respective
6 department, or has entered into an agreement with the respective
7 department that includes a practical corrective action plan for the
8 developer. The authority may also contract with an independent third
9 party to perform a background check on the developer. Provided that
10 the developer is in substantial good standing, or has entered into such
11 an agreement, and following approval of an application by the board,
12 the authority shall enter into a redevelopment agreement with the
13 developer, as provided for in section 13 of P.L. , c. (C.)
14 (pending before the Legislature as this bill).

15 (2) The authority, in consultation with the department, may
16 impose additional requirements upon an applicant through rule or
17 regulation adopted pursuant to the provisions of the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority
19 or the department determines the additional requirements to be
20 necessary and appropriate to effectuate the purposes of sections 9
21 through 19 of P.L. , c. (C.) (pending before the Legislature
22 as this bill).

23 e. The authority, in consultation with the department, shall
24 conduct a review of the applications through a competitive
25 application process whereby the authority and the department shall
26 evaluate all applications submitted by a date certain, as if all received
27 applications were submitted on that date. In addition to the eligibility
28 criteria set forth in subsection b. of this section, the authority may
29 consider additional factors that may include, but shall not be limited
30 to: the economic feasibility of the remediation project; the benefit of
31 the remediation project to the community in which the remediation
32 project is located; the degree to which the remediation project
33 enhances and promotes job creation and economic development and
34 addresses environmental concerns of communities that have been
35 historically and disproportionately impacted by environmental
36 hazards; and, if the developer has a board of directors, the extent to
37 which that board of directors is diverse and representative of the
38 community in which the remediation project is located. The
39 authority, in consultation with the department, shall submit
40 applications that comply with the eligibility criteria set forth in this
41 section, fulfill the additional factors considered by the authority
42 pursuant to this subsection, satisfy the submission requirements, and
43 provide adequate information for the subject application, to the board
44 for final approval.

45 f. The authority shall award tax credits to redevelopment
46 projects until either the available tax credits are exhausted or all
47 redevelopment projects that are eligible for a tax credit pursuant to
48 the provisions of sections 9 through 19 of P.L. , c. (C.)

1 (pending before the Legislature as this bill) receive a tax credit,
 2 whichever occurs first. If insufficient funding exists to allow a tax
 3 credit to a developer in accordance with the provisions of subsection
 4 a. of section 16 of P.L. , c. (C.) (pending before the Legislature
 5 as this bill), the authority may offer the developer a value of the tax
 6 credit below the amount provided for in subsection a. of section 16
 7 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

16 i. If circumstances require a developer to amend its application
 17 to the authority, then the developer, or an authorized agent of the
 18 developer, shall certify to the authority that the information provided
 19 in its amended application is true, under the penalty of perjury.

20 j. A developer that has commenced remediation or clean up at
 21 the site of a redevelopment project prior to application may still apply
 22 for a tax credit under the program, if the developer certifies to the
 23 authority, under the penalty of perjury, that the developer was
 24 unaware of the extent of the site contamination when the developer
 25 commenced the redevelopment project.

26
 27 13. (New section) a. Following approval of an application by the
 28 board, but prior to the start of any remediation or clean up at the site
 29 of the redevelopment project, the authority shall enter into a
 30 redevelopment agreement with the developer. The chief executive
 31 officer of the authority shall negotiate the terms and conditions of the
 32 redevelopment agreement on behalf of the State.

33 b. The redevelopment agreement shall specify the amount of the
 34 tax credit to be awarded to the developer, the date on which the
 35 developer shall complete the remediation, and the projected project
 36 remediation cost. The redevelopment agreement shall require the
 37 developer to submit progress reports to the authority and to the
 38 department every six months pursuant to section 15 of P.L. , c.
 39 (C.) (pending before the Legislature as this bill). The
 40 redevelopment agreement shall also require the developer to consent
 41 to the disclosure of tax expenditure information as described in
 42 paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
 43 (C.52:27B-20a).

44 c. The authority shall not enter into a redevelopment agreement
 45 with a developer unless:

46 (1) the redevelopment project complies with standards
 47 established by the authority in accordance with the green building
 48 manual prepared by the Commissioner of Community Affairs

1 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding
2 the use of renewable energy, energy-efficient technology, and non-
3 renewable resources to reduce environmental degradation and
4 encourage long-term cost reduction;

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

8 (3) the developer pays each worker employed to perform
9 remediation work or construction work at the redevelopment project
10 not less than the prevailing wage rate in accordance with the
11 requirements of paragraph (6) of subsection b. of section 12 of
12 P.L. , c. (C.)(pending before the Legislature as this bill) for
13 the worker's craft or trade, as determined by the Commissioner of
14 Labor and Workforce Development pursuant to P.L.1963, c.150
15 (C.34:11-56.25 et seq.).

16 d. The authority shall not enter into a redevelopment agreement
17 with a developer who is liable, pursuant to paragraph (1) of
18 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), for
19 the contamination at the brownfield site proposed to be in the
20 redevelopment agreement.

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

31 (2) A labor harmony agreement shall be required only if the State
32 has a proprietary interest in the redevelopment project and shall
33 remain in effect for as long as the State acts as a market participant
34 in the redevelopment project. The authority may enter into a
35 redevelopment agreement with a developer without the labor
36 harmony agreement required under paragraph (1) of this subsection
37 only if the authority determines that the redevelopment project would
38 not be feasible if a labor harmony agreement is required. The
39 authority shall support the determination by a written finding, which
40 provides the specific basis for the determination.

41 (3) As used in this subsection, "labor harmony agreement" means
42 an agreement between a business that serves as the owner or operator
43 of a retail establishment or distribution center and one or more labor
44 organizations, which requires, for the duration of the agreement: that
45 any participating labor organization and its members agree to refrain
46 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 participating

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

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

24 g. A developer may seek a revision to the redevelopment
25 agreement if the developer cannot complete the remediation on or
26 before the date set forth in the redevelopment agreement. A
27 developer's ability to change the date on which the developer shall
28 complete the remediation shall be subject to the availability of tax
29 credits in the year of the revised date of completion.

30 h. A developer shall submit to the authority satisfactory
31 evidence of the actual remediation costs, as certified by a certified
32 public accountant, evidence of completion of the remediation, and a
33 certification that all information provided by the developer to the
34 authority is true, including information contained in the application,
35 the redevelopment agreement, any amendment to the redevelopment
36 agreement, and any other information submitted by the developer to
37 the authority pursuant to sections 9 through 19 of P.L. , c.
38 (C.) (pending before the Legislature as this bill). The developer,
39 or an authorized agent of the developer, shall certify under the
40 penalty of perjury that the information provided pursuant to this
41 subsection is true.

42 i. The redevelopment agreement shall include a requirement
43 that the chief executive officer of the authority receive annual reports
44 from the Department of Environmental Protection, the Department of
45 Labor and Workforce Development, and the Department of the
46 Treasury that demonstrating the developer, and each contractors and
47 subcontractor performing work on the redevelopment project, is in
48 substantial good standing with the respective department, or has

1 entered into an agreement with the respective department that
2 includes a practical corrective action plan for the developer. The
3 redevelopment agreement shall also include a provision allowing
4 authority to recapture the tax credits for any year in which any such
5 report is not received. The redevelopment agreement shall also
6 require a developer to engage in on-site consultations with the
7 Division of Workplace Safety and Health in the Department of
8 Health.

9
10 14. (New section) To qualify for a tax credit under the program, a
11 developer shall:

12 a. enter into a memorandum of agreement or other oversight
13 document with the Commissioner of Environmental Protection in
14 accordance with the provisions of section 37 of P.L.1997, c.278
15 (C.58:10B-29); or

16 b. comply with the requirements set forth in subsection b. of
17 section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of
18 the site of the redevelopment project.

19
20 15. (New section) Commencing with the date six months
21 following the date the authority and a developer execute a
22 redevelopment agreement and every six months thereafter until
23 completion of the project, the developer shall submit an update of the
24 status of the redevelopment project to the authority and to the
25 department, including the remediation costs incurred by the
26 developer for the remediation of the contaminated property located
27 at the site of the redevelopment project. Unless the authority
28 determines that extenuating circumstances exist, the authority's
29 approval of a tax credit shall expire if the authority, the department,
30 or both, do not timely receive the status update required under this
31 section. The authority may rescind an award of tax credits under the
32 program if a redevelopment project fails to advance in accordance
33 with the redevelopment agreement.

34
35 16. (New section) a. Upon completion of the redevelopment
36 project, the developer shall seek certification from the department
37 that:

38 (1) the redevelopment project is complete;

39 (2) the developer complied with the requirements of section 15 of
40 P.L. , c. (C.) (pending before the Legislature as this bill),
41 including the requirements of any memorandum of agreement or
42 other oversight document that the developer may have executed with
43 the Commissioner of Environmental Protection pursuant to that
44 section; and

45 (3) the remediation costs were actually and reasonably incurred.
46 Upon receipt of certification, and confirmation by the authority that
47 the developer's obligations under the redevelopment agreement have
48 been met, a developer shall be awarded a credit against the tax

1 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an
2 amount not to exceed 40 percent of the actual remediation costs, or
3 40 percent of the projected remediation costs as set forth in the
4 redevelopment agreement, or \$4,000,000, whichever is least. The
5 developer, or an authorized agent of the developer, shall certify that
6 the information provided to the department and the authority
7 pursuant to this subsection is true under the penalty of perjury.

8 b. When filing an application for certification pursuant to
9 subsection a. of this section, the developer shall submit to the director
10 the total remediation costs incurred by the developer for the
11 remediation of the subject property located at the site of the
12 redevelopment project as provided in the redevelopment agreement
13 and certified by a certified public accountant, information concerning
14 the occupancy rate of the buildings or other work areas located on
15 the property subject to the redevelopment agreement, and such other
16 information as the director deems necessary in order to make the
17 certifications and findings pursuant to this section.

18 c. A developer shall apply the credit awarded against the
19 developer's liability for the tax imposed pursuant to section 5 of
20 P.L.1945, c.162 (C.54:10A-5) for the privilege period during which
21 the director awards the developer a tax credit pursuant to subsection
22 a. of this section. A developer shall not carry forward any unused
23 credit. Credits awarded to a partnership shall be passed through to
24 the partners, members, or owners, respectively, pro-rata, or pursuant
25 to an executed agreement among the partners, members, or owners
26 documenting an alternate distribution method provided to the director
27 accompanied by any additional information as the director may
28 prescribe.

29 d. The director shall prescribe the order of priority of the
30 application of the credit awarded under this section and any other
31 credits allowed by law against the tax imposed under section 5 of
32 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
33 under this section against the tax imposed pursuant to section 5 of
34 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
35 any other credits allowed by law, shall not reduce the tax liability to
36 an amount less than the statutory minimum provided in subsection
37 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

38

39 17. (New section) a. A developer may apply to the director and
40 the chief executive officer of the authority for a tax credit transfer
41 certificate, during the privilege period in which the director awards
42 the developer a tax credit pursuant to section 16 of P.L. , c.
43 (C.) (pending before the Legislature as this bill), in lieu of the
44 developer being allowed to apply any amount of the tax credit against
45 the developer's State tax liability. The tax credit transfer certificate,
46 upon receipt thereof by the developer from the director and the chief
47 executive officer of the authority, may be sold or assigned, in the
48 privilege period during which the developer receives the tax credit

1 transfer certificate from the director, to another person, who may
2 apply the credit against a tax liability pursuant to section 5 of
3 P.L.1945, c.162 (C.54:10A-5) , sections 2 and 3 of P.L.1945, c.132
4 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
5 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate
6 provided to the developer shall include a statement waiving the
7 developer's right to claim the credit that the developer has elected to
8 sell or assign.

9 b. The developer shall not sell or assign a tax credit transfer
10 certificate allowed under this section for consideration received by
11 the developer of less than 85 percent of the transferred credit amount
12 before considering any further discounting to present value which
13 shall be permitted, except a developer of a residential project
14 consisting of newly-constructed residential units that has received
15 federal low income housing tax credits under 26 U.S.C.
16 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
17 consideration of no less than 75 percent subject to the submission of
18 a plan to the authority and the New Jersey Housing and Mortgage
19 Finance Agency to use the proceeds derived from the assignment of
20 tax credits to complete the residential project.. The tax credit transfer
21 certificate issued to a developer by the director shall be subject to any
22 limitations and conditions imposed on the application of State tax
23 credits pursuant to section 16 of P.L. , c. (C.) (pending before
24 the Legislature as this bill) and any other terms and conditions that
25 the director may prescribe.

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

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

- 32 (1) the name of the transferor;
33 (2) the name of the transferee;
34 (3) the value of the tax credit transfer certificate;
35 (4) the State tax against which the transferee may apply the tax
36 credit; and
37 (5) the consideration received by the transferor.

38
39 18. (New section) Beginning the year next following the year in
40 which sections 9 through 19 of P.L. , c. (C.) (pending before
41 the Legislature as this bill) take effect and every two years thereafter,
42 a State college or university established pursuant to chapter 64 of
43 Title 18A of the New Jersey Statutes shall, pursuant to an agreement
44 executed between the State college or university and the authority,
45 prepare a report on the implementation of the program, and submit
46 the report to the authority, the Governor, and, pursuant to section 2
47 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial
48 report required under this section shall include a description of each

1 redevelopment project receiving a tax credit under the program, a
2 detailed analysis of the consideration given in each project to the
3 factors set forth in sections 12 and 13 of P.L. , c. (C.)
4 (pending before the Legislature as this bill), the return on investment
5 for incentives awarded, the redevelopment project's impact on the
6 State's economy, and any other metrics the State college or university
7 determines are relevant based upon national best practices. The
8 authority shall prepare a written response to the report, which the
9 authority shall submit to the Governor and, pursuant to section 2 of
10 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

11

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

41

42 20. (New section) Sections 20 through 34 of P.L. , c. (C.)
43 (pending before the Legislature as this bill) shall be known and may
44 be cited as the "New Jersey Innovation Evergreen Act."

45

46 21. (New section) As used in sections 20 through 34 of P.L. , c.
47 (C.) (pending before the Legislature as this bill):

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

5 "Follow-on investment" means a subsequent investment made by
6 an investor who has a previous investment in a New Jersey high-
7 growth business.

8 "Fund" means the "New Jersey Innovation Evergreen Fund"
9 established by section 23 of P.L. , c. (C.) (pending before
10 the Legislature as this bill).

11 "High-growth business" means a business that is growing
12 significantly faster than the average growth rate of the economy or is
13 a start-up company that is investing in developing a product or new
14 business model that will allow it to grow significantly faster than the
15 average growth rate of the economy within the next three to five
16 years.

17 "Incentive area" means an area in this State: (1) designated
18 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196
19 et seq.), as Planning Area 1 (Metropolitan); or (2) that has been
20 designated as a qualified opportunity zone pursuant to 26 U.S.C.
21 s.1400Z-1.

22 "Innovation ecosystem" means funding, programs, and events that
23 support the establishment and expansion of high-growth companies
24 in targeted sectors. Examples of such funding, programs, and events
25 include: mentoring programs for start-ups, meet-up or networking
26 events, funding for locating a business in a collaborative workspace,
27 programs that provide businesses services, and entrepreneurial
28 education to companies.

29 "Opportunity zone" means a federal population census tract in this
30 State that was eligible to be designated as a qualified opportunity
31 zone pursuant to 26 U.S.C. s.1400Z-1 as may be amended.

32 "Principal business operations" means at least 50 percent of the
33 business's employees, who are not primarily engaged in retail sales,
34 reside in the State, or at least 50 percent of the business's payroll for
35 employees not primarily engaged in retail sales is paid to individuals
36 living in this State.

37 "Program" means the New Jersey Innovation Evergreen Program
38 established by section 22 of P.L. , c. (C.) (pending before
39 the Legislature as this bill).

40 "Purchaser" means an entity registered to do business in this State
41 with the Director of the Division of Revenue and Enterprise Services
42 in the Department of the Treasury that purchases an allocation of tax
43 credits under the program.

44 "Qualified business" means a business that, at the time of the first
45 qualified investment in the business and throughout the period of the
46 qualified investment under the program, is registered to do business
47 in this State with the Director of the Division of Revenue and
48 Enterprise Services in the Department of the Treasury; has its

1 principal business operations located in the State and intends to
2 maintain its principal business operations in the State after receiving
3 a qualified investment under the program; is engaged in a targeted
4 industry; and employs fewer than 250 persons at the time of the
5 qualified investment

6 "Qualified investment" means the direct investment of money by
7 the fund in a qualified business for the purchase of shares of stock,
8 with an additional investment in an option or warrant or a follow-on
9 investment, in the discretion of the authority, all of which is matched
10 by an investment by a qualified venture firm.

11 "Qualified venture firm" means a venture firm that is approved by
12 the authority as a qualified venture firm pursuant to section 29 of
13 P.L. , c. (C.) (pending before the Legislature as this bill).

14 "Special purpose vehicle" means an entity controlled by or under
15 common control with a venture firm that is formed solely for the
16 purpose of investing in a New Jersey high-growth business alongside
17 the venture firm.

18 "Targeted industry" means any industry identified from time to
19 time by the authority which shall initially include advanced
20 transportation and logistics, advanced manufacturing, aviation,
21 autonomous vehicle and zero-emission vehicle research or
22 development, clean energy, life sciences, hemp processing,
23 information and high technology, finance and insurance, professional
24 services, film and digital media, and non-retail food and beverage
25 businesses, including food innovation and other innovative industries
26 that disrupt current technologies or business models.

27 "Venture firm" means a partnership, corporation, trust, or limited
28 liability company that invests cash in a business during the early or
29 expansion stages of a business in exchange for an equity stake in the
30 business in which the investment is made. Venture firm may include
31 a venture capital fund, a family office fund, or a corporate investor
32 fund, provided that a professional manager administers the venture
33 firm.

34

35 22. (New section) The New Jersey Innovation Evergreen Program
36 is established as a program under the jurisdiction of the New Jersey
37 Economic Development Authority. The purpose of the program is to
38 invest in innovation as a catalyst for economic growth and to advance
39 the competitiveness of the State's businesses in the global economy.
40 Beginning on the effective date of sections 20 through 34 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill), the authority
42 shall auction up to \$300,000,000 in tax credits in annual amounts not
43 to exceed the limitations set forth in section 98 of P.L. , c. (C.)
44 (pending before the legislature as this bill). The authority shall not
45 undertake an auction if, exclusive of reserves, including the reserve
46 set aside for follow-on investments pursuant to subsection d. of
47 section 23 of P.L. , c. (C.) (pending before the Legislature
48 as this bill), more than \$15,000,000 is available to the authority, from

1 moneys received from any prior auction of tax credits pursuant to the
2 program, to allocate to qualified venture firms.

3
4 23. (New section) a. The authority shall establish and maintain a
5 dedicated fund to be known as the "New Jersey Innovation Evergreen
6 Fund." The authority shall use the money in the fund to carry out the
7 purposes enumerated in subsections b. and c. of this section. The
8 authority shall credit the fund with money paid by purchasers;
9 distributions from payments or repayments made to the authority in
10 accordance with subsection c. of section 31 of P.L. , c. (C.)
11 (pending before the Legislature as this bill); earnings received, if any,
12 from the investment or reinvestment of money credited to the fund;
13 and any money which, from time to time, may otherwise become
14 available for the purposes of the fund.

15 b. The authority shall allocate the money in the fund to qualified
16 venture firms to make qualified investments of capital in qualified
17 businesses through a special purpose vehicle in accordance with
18 section 30 of P.L. , c. (C.) (pending before the Legislature
19 as this bill) and to pay the administrative, legal, and auditing
20 expenses of the authority incurred in the administration of the
21 program. In addition, the authority shall use 75 basis points of the
22 total amounts deposited in the fund, calculated on an annual basis,
23 for programs administered by the authority that create an innovation
24 ecosystem that supports and promotes high-growth businesses in the
25 State.

26 c. The authority shall deposit into the fund dividends and returns
27 on investments paid to the authority by or on behalf of a qualified
28 business. Upon the fund holding total deposits of \$500,000,000 and
29 thereafter upon a qualified investment in a qualified business
30 achieving a return on investment of twice the original and follow-on
31 investment, 50 percent of any return on investment in excess of twice
32 the original and follow-on investment shall be paid to the General
33 Fund of the State.

34 d. The authority shall account for and calculate reserves for
35 follow-on investments, programs that support the State's innovation
36 ecosystem, and administrative, legal, and auditing expenses of the
37 authority in administering the program. The authority shall not
38 include these reserves when calculating the amount in the fund
39 available for new qualified investments.

40
41 24. (New section) a. The authority shall sell the tax credits
42 authorized pursuant to section 22 of P.L. , c. (C.) (pending
43 before the Legislature as this bill) to purchasers through a
44 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
47 program. To be awarded a tax credit under the program, a potential
48 purchaser shall:

1 (1) specify the requested amount of tax credits, which shall not
2 be less than \$1,000,000;

3 (2) specify the amount the potential purchaser will pay in
4 exchange for the requested amount of tax credits, which shall not be
5 less than 85 percent of the requested dollar amount of tax credits;

6 (3) commit to serve on the New Jersey Innovation Evergreen
7 Advisory Board, established pursuant to section 32 of P.L. , c.
8 (C.) (pending before the Legislature as this bill), and to
9 otherwise provide mentorship, networking, and collaboration
10 opportunities to qualified businesses that receive funding under the
11 program; and

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

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

25 d. Except as provided in section 22 of P.L. , c. (C.)
26 (pending before the Legislature as this bill), the authority shall hold
27 one competitive auction per calendar year.

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

31
32 25. (New section) a. A purchaser that submits a successful bid
33 for the purchase of tax credits pursuant to section 24 of P.L. , c.
34 (C.) (pending before the Legislature as this bill) shall enter into
35 a contract with the authority that includes payment information and
36 the commitments made by the purchaser in its auction bid. A
37 purchaser that submits a successful bid for the purchase of tax credits
38 pursuant to section 24 of P.L. , c. (C.) (pending before the
39 Legislature as this bill) shall pay by wire transfer the amount
40 specified in its auction bid to the authority for deposit into the fund.
41 Upon receipt thereof, the chief executive officer shall notify the
42 director to issue tax credits in the amount approved. Failure by the
43 purchaser to pay the amount agreed upon on time may disqualify the
44 purchaser from purchasing the tax credits and the authority may
45 reassign the right to purchase the credits to another bidder. Failure
46 by the purchaser to adhere to the commitments made in its auction
47 bid may disqualify the purchaser from participating in future auctions
48 and may result in the recapture of a portion of the tax credits.

1 b. The authority shall credit to the fund any money paid to the
2 authority by a purchaser for an allocation of tax credits under the
3 program.

4 c. The authority shall ensure that no undue financial advantage
5 shall inure to a purchaser that also is: managing a qualified venture
6 firm; beneficially owning, through rights, options, convertible
7 interests, or otherwise, more than 15 percent of the voting securities
8 or other voting ownership interests of a qualified venture firm; or
9 controlling the direction of investments for a qualified venture firm.
10 The chief executive officer of the authority shall certify that the
11 authority is monitoring the activities of such purchasers and has taken
12 appropriate steps to ensure no undue financial advantage inures to the
13 purchasers.

14

15 26. (New section) a. A purchaser shall apply a credit awarded
16 pursuant to sections 20 through 34 of P.L. , c. (C.) (pending
17 before the Legislature as this bill) against the State tax liability due
18 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) of the
19 purchaser for the current privilege period as of the date of the credit's
20 approval. A purchaser may carry forward an unused credit resulting
21 from the limitations of subsection b. of this section, if necessary, for
22 use in the seven privilege periods next following the privilege period
23 for which the credit is awarded.

24 b. The director shall prescribe the order of priority of the
25 application of the credits awarded under sections 20 through 34 of
26 P.L. , c. (C.) (pending before the Legislature as this bill) and
27 any other credits allowed by law. The amount of a credit applied
28 under sections 20 through 34 of P.L. , c. (C.) (pending before
29 the Legislature as this bill) against the tax imposed pursuant to
30 section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period,
31 together with any other credits allowed by law, shall not reduce the
32 tax liability of the purchaser to an amount less than the statutory
33 minimum provided in subsection (e) of section 5 of P.L.1945, c.162
34 (C.54:10A-5).

35

36 27. (New section) a. A purchaser may apply to the authority and
37 the director for a tax credit transfer certificate, in the privilege period
38 during which the director allows the purchaser a tax credit pursuant
39 to sections 20 through 34 of P.L. , c. (C.) (pending before
40 the Legislature as this bill), in lieu of the purchaser being allowed to
41 apply any amount of the tax credit against the purchaser's State tax
42 liability. A tax credit may be sold or assigned, in full or in part, to
43 another person that may have a tax liability pursuant to section 5 of
44 P.L.1945, c.162 (C.54:10A-5). The tax credit transfer certificate
45 provided to the purchaser shall include a statement waiving the
46 purchaser's right to claim the credit that the purchaser has elected to
47 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 percent of the transferred credit amount
4 before considering any further discounting to present value which
5 shall be permitted. The tax credit transfer certificate issued to a
6 purchaser by the director shall be subject to any limitations and
7 conditions imposed on the application of State tax credits pursuant to
8 section 26 of P.L. , c. (C.) (pending before the Legislature
9 as this bill) and any other terms and conditions that the director may
10 prescribe.

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

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

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

- 21 (1) the name of the transferor;
22 (2) the name of the transferee;
23 (3) the value of the tax credit transfer certificate;
24 (4) the State tax against which the transferee may apply the tax
25 credit; and
26 (5) the consideration received by the transferor.

27
28 28. (New section) a. The authority shall establish an application
29 process and determine the form and manner through which a venture
30 firm may make and file an application for certification as a qualified
31 venture firm. The authority may accept applications on a rolling
32 basis or on a date set by the authority.

33 b. In evaluating applicants for certification as a qualified venture
34 firm, the authority shall establish weighted criteria by which the
35 authority will evaluate all venture firms applying in the same
36 calendar year and shall establish a minimum acceptable score. The
37 criteria shall include, but not be limited to:

- 38 (1) the management structure of the applicant, including:
39 (a) quality of the leadership, including willingness to work with
40 the authority to support targeted industries and the innovation
41 ecosystem in the State, and to locate in the State;
42 (b) the investment experience of the principals with qualified
43 businesses;
44 (c) the knowledge, experience, and capabilities of the applicant
45 in subject areas relevant to high-growth businesses in the State;
46 (d) the tenure and turnover history of principals and senior
47 investment professionals of the applicant;

1 (e) whether the State's investment with the applicant under this
2 program would exceed 15 percent of the total invested in the
3 applicant by all investors, including investments in any special
4 purpose vehicles;

5 (f) the applicant's stage of fundraising; and

6 (g) whether fees, expenses, and the remuneration of the general
7 partner or manager are similar to those of peer investors;

8 (2) the applicant's investment strategy, including:

9 (a) the applicant's track record of investing in high-growth
10 businesses;

11 (b) whether the investment strategy of the applicant is focused on
12 high-growth businesses, including the percentage of the investment
13 identified to be invested in New Jersey or surrounding geographic
14 areas; and

15 (c) the performance history of the general partner or fund
16 manager based on a review of investment returns on individual funds
17 on an absolute basis and relative to peers; and

18 (3) The location of the applicant's venture firm and the proposed
19 structure of the applicant venture firm's investments in qualified
20 businesses, with preference given to applicant venture firms that are
21 located in incentive areas and to applicant venture firms that agree to
22 dedicate a greater portion of qualified investments into qualified
23 businesses located within incentive areas.

24
25 29. (New section) a. The authority shall certify or refuse to
26 certify a venture firm as a qualified venture firm based on the criteria
27 for certification set forth in section 28 of P.L. , c. (C.)
28 (pending before the Legislature as this bill), and subsections b. and
29 c. of this section.

30 b. The authority shall not certify a venture firm as a qualified
31 venture firm if the venture firm has: (1) an equity capitalization, net
32 assets, or written commitments of less than \$10,000,000 in the form
33 of cash or cash equivalents on the date the determination for
34 certification is made; or (2) fewer than two principals or persons
35 employed to direct the qualified investment of capital with at least
36 five years of money management experience in the venture capital or
37 private equity sectors on the date the determination for certification
38 is made. The authority may adopt, pursuant to the provisions of the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), rules setting forth additional disqualifying criteria and
41 adjusting the minimum equity capitalization, net assets, or written
42 commitments of a qualified venture firm.

43 c. Prior to certifying a venture firm as a qualified venture firm,
44 the Department of Labor and Workforce Development, the
45 Department of Environmental Protection, and the Department of the
46 Treasury shall each report to the chief executive officer of the
47 authority whether the venture firm is in substantial good standing
48 with the respective department, or has entered into an agreement with

1 the respective department that includes a practical corrective action
2 plan for the venture firm. The authority may also contract with an
3 independent third party to perform a background check on the
4 venture firm.

5 d. The authority shall provide written notification to each
6 venture firm that is certified as a qualified venture firm by the
7 authority and shall provide written notification to each venture firm
8 that the authority refuses to certify as a qualified venture firm,
9 communicating in detail the grounds for the authority's refusal. The
10 authority shall review each qualified venture firm annually for the
11 disqualifying criteria set forth in subsection b. of this section or other
12 reasonable industry-accepted standards as determined by the
13 authority. The authority may decertify a qualified venture firm at any
14 time pursuant to the disqualifying criteria set forth in subsection b.
15 of this section. Decertification shall not affect any previously made
16 qualified investment or the fund's commitment to make a follow-on
17 investment in a qualified business.

18
19 30. (New section) a. (1) The authority is authorized to allocate
20 money credited to the fund to one or more qualified venture firms for
21 qualified investments at the times, in the amounts, and subject to the
22 terms and conditions that the authority shall determine to be
23 necessary and appropriate to effectuate the purposes of sections 20
24 through 34 of P.L. , c. (C.) (pending before the Legislature
25 as this bill); provided that no more than two qualified investments
26 shall be made with each qualified venture firm in a calendar year.

27 (2) Each qualified investment shall not exceed \$5,000,000 in
28 initial investment, exclusive of follow-on investments; provided,
29 however, if a qualified investment is in a business: (a) which utilizes
30 intellectual property that is core to the its business model and was
31 developed at a New Jersey-based college or university; (b) is
32 considered a university spin-off business as determined by the
33 authority; or (c) is certified by the State as a "minority business" or a
34 "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et
35 seq.), then the qualified investment shall not exceed \$6,250,000 in
36 initial investment, exclusive of follow-on investments.

37 (3) The fund shall not invest in a qualified venture firm if the
38 authority determines that an undue financial advantage would inure
39 to a purchaser if the investment occurs or if the investment would be
40 inconsistent with the investment policies and goals of the State.

41 (4) The authority shall have a goal for 25 percent of the fund
42 money that is allocated to qualified venture firms is reserved for
43 investment in businesses located in opportunity zones.

44 (5) Within one year of the effective date of P.L. , c. (C.)
45 (pending before the Legislature as this bill), the authority shall
46 undertake a disparity study of investment by venture firms in women-
47 and minority-owned business enterprises in this State. Based on the
48 finding of the disparity study, the authority, following board

1 approval, may institute a set-aside plan to ensure that fund money
2 allocated to qualified venture firms is reserved for investment in
3 women- and minority-owned business enterprises in this State.

4 b. The authority shall make and enter into an agreement with
5 each qualified venture firm to which the authority allocates money
6 under the program. The agreement shall include provisions that
7 require the qualified venture firm to:

8 (1) make investments in qualified businesses that equal or exceed
9 the amount of capital received by the qualified venture firm from the
10 fund under the program;

11 (2) cause an audit of the qualified venture firm's books and
12 accounts, which a certified public accountant, who is licensed in
13 accordance with the "Accountancy Act of 1997," P.L.1997, c.259
14 (C.45:2B-42 et seq.), or licensed in accordance with the laws of
15 another state, shall conduct at least once in each year in which the
16 qualified venture firm is in receipt of fund money or in which the
17 qualified venture firm is responsible for the management of fund
18 money allocated to the qualified venture firm by the authority;

19 (3) enter into an agreement with each qualified business that
20 receives a qualified investment, which agreement shall, at a
21 minimum, require the qualified business to use the qualified
22 investment of capital to support its business operations in this State
23 and to provide the information required under section 31 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill);

25 (4) upon the identification of a qualified investment, create a
26 special purpose vehicle for the qualified investment of the fund;

27 (5) upon the identification of a qualified investment, indicate the
28 amount of follow-on investment the authority should reserve, and
29 periodically provide updates concerning this amount;

30 (6) agree that the qualified venture firm will publicize its
31 participation in the "New Jersey Innovation Evergreen Fund;"

32 (7) consent to the authority publicly disclosing the qualified
33 venture firm on the list of qualified investment firms participating in
34 the program; and

35 (8) consent to the disclosure of tax expenditure information as
36 described in paragraph (8) of subsection b. of section 1 of P.L.2009,
37 c.189 (C.52:27B-20a).

38 c. A qualified venture firm that has made and entered into an
39 agreement with the authority in accordance with subsection b. of this
40 section is authorized to make qualified investments of capital in one
41 or more qualified businesses from fund money allocated to the
42 qualified venture firm by the authority at the times, in the amounts,
43 and subject to the terms and conditions that the qualified venture firm
44 determines to be necessary and appropriate. The authority may limit
45 the amount of allocated fund money that a qualified venture firm
46 invests in a qualified business based upon the size of investments the
47 qualified business has received, the source of the investments, and
48 the industry in which the qualified business is engaged.

- 1 31. (New section) a. A qualified venture firm shall annually
2 report to the authority:
- 3 (1) the amount of the qualified investment, if any, uninvested at
4 the end of the preceding calendar year;
- 5 (2) all qualified investments made during the preceding calendar
6 year, including the number and wages of employees of each qualified
7 business at the time the venture firm made the qualified investment
8 and as of December 31 of that year;
- 9 (3) for any qualified investment in which the qualified venture
10 firm no longer has a position as of the end of the calendar year, the
11 number of employees of the business as of the date the investment
12 was terminated;
- 13 (4) financials, audited by a certified public accountant, who is
14 licensed in accordance with the "Accountancy Act of 1997,"
15 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with
16 the laws of another state, of the qualified venture firm and the special
17 purpose vehicle that include a consolidated summary of the
18 performance of the qualified venture firm. Any information about the
19 performance of an individual business, including the qualified
20 business, shall be considered confidential and not subject to the
21 requirements of P.L.1963, c.73 (C.47:1A-1 et seq.); and
- 22 (5) any other information the authority requires to ascertain the
23 impact of the program on the economy of the State.
- 24 b. With respect to the information required under paragraphs (1)
25 through (4) of subsection a. of this section, the report shall include a
26 statement prepared by a certified public accountant, who is licensed
27 in accordance with the "Accountancy Act of 1997," P.L.1997, c.259
28 (C.45:2B-42 et seq.), or licensed in accordance with the laws of
29 another state, certifying that the accountant has reviewed the report
30 and that the information and representations contained in the report
31 are accurate.
- 32 c. Not later than 60 days after the sale or other disposition of a
33 qualified investment, the qualified venture firm shall provide to the
34 authority a report on the amount of the stock sold or disposed of and
35 the consideration received for the sale or disposition. The report shall
36 detail the cumulative effect of sequentially introduced positive or
37 negative values and include the gross income and details of any
38 offsetting fees that reduce the net distribution. Any dividend or
39 proceeds received by the authority for the sale or other disposition of
40 a qualified investment shall be deposited into the fund and used in
41 accordance with section 23 of P.L. , c. (C.) (pending before
42 the Legislature as this bill).
- 43 d. A qualified venture firm shall, as required at the discretion of
44 the authority, submit to the authority satisfactory evidence
45 supporting the information detailed in the annual report and
46 certifying that all information provided by the qualified venture firm
47 to the authority is true, including information contained in the
48 application for certification, the agreement between the qualified

1 venture firm and authority, any amendment to that agreement, and
2 any other information submitted by the qualified venture firm to the
3 authority pursuant to sections 20 through 34 of P.L. , c. (C.)
4 (pending before the Legislature as this bill). The qualified venture
5 firm, or an authorized agent of the qualified venture firm, shall certify
6 under the penalty of perjury that the information provided pursuant
7 to this section is true.
8

9 32. (New section) The New Jersey Innovation Evergreen
10 Advisory Board is established in but not of the authority for the
11 purposes of providing guidance and networking opportunities to
12 qualified businesses. The members of the board shall serve in a
13 voluntary capacity, to be appointed through a process to be
14 determined by the chief executive officer of the authority from
15 among purchasers and other strategic partners identified by the chief
16 executive officer, to support the State's innovation ecosystem. The
17 terms of the voluntary members so appointed, after the initial
18 appointments, shall be one year, and each member may be
19 reappointed.
20

21 33. (New section) Beginning the year next following the year in
22 which sections 20 through 34 of P.L. , c. (C.) (pending before
23 the Legislature as this bill) take effect and every two years thereafter,
24 the authority shall prepare a report on the implementation of the
25 program, and submit the report to the Governor, and, pursuant to
26 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each
27 biennial report required under this section shall include the names
28 and locations of qualified businesses receiving capital; the amount of
29 each qualified investment; a report by a certified public accountant,
30 who is licensed in accordance with the "Accountancy Act of 1997,"
31 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with
32 the laws of another state, of the consolidated performance of the fund;
33 the cumulative amount of capital committed by purchasers; the rate
34 and amount of fees charged by each qualified venture firm, including
35 performance-based earnings and carried interest; the classification of
36 each qualified business, according to the industrial sector and the size
37 of the qualified business; the State's return on investment; the total
38 number of jobs created in the State by the qualified business after the
39 qualified investment; the average wages paid for the jobs; and any
40 other metrics the authority determines are relevant based upon
41 national best practices.
42

43 34. (New section) Notwithstanding the provisions of the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.), to the contrary, the chief executive officer of the authority may
46 adopt, immediately, upon filing with the Office of Administrative
47 Law, regulations that the chief executive officer deems necessary to
48 implement the provisions of sections 20 through 34 of P.L. , c.

1 (C.) (pending before the Legislature as this bill), which
2 regulations shall be effective for a period not to exceed 180 days from
3 the date of the filing. The chief executive officer shall thereafter
4 amend, adopt, or readopt the regulations in accordance with the
5 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
6

7 35. (New section) Sections 35 through 42 of P.L. , c. (C.)
8 (pending before the Legislature as this bill) shall be known and may
9 be cited as the "Food Desert Relief Act."
10

11 36. (New section) a. The Legislature finds and declares that: (1)
12 there are certain areas of the State, known as "food desert"
13 communities, in which residents are unable to obtain reasonable and
14 adequate access to nutritious foods and, in particular, to fresh fruits
15 and vegetables; (2) the inaccessibility of nutritious food in food
16 desert communities has been attributed, in large part, to the absence
17 of supermarkets and grocery stores in those communities; (3) low-
18 income families are more likely than others to live in food desert
19 communities and to lack the transportation or financial resources
20 necessary to reach distant wholesome markets; and (4) the
21 establishment of financial incentives to supermarkets, grocery stores,
22 mid-sized food retailers, and small food retailers is a reasonable
23 means by which to ensure that residents of food desert communities
24 in the State are provided with reasonable access to nutritious, fresh,
25 and delicious produce, and are afforded the opportunity thereby to
26 make healthier eating choices for themselves and for their families.

27 b. The Legislature therefore determines that it is both reasonable
28 and necessary to authorize the New Jersey Economic Development
29 Authority to establish a program that provides financial assistance to
30 supermarkets, grocery stores, mid-sized food retailers, and small
31 food retailers to establish and retain locations in food desert
32 communities in order to provide a consistent, and easily accessible,
33 source of fresh produce to residents in those communities.
34

35 37. (New section) As used in sections 35 through 42 of P.L. , c.
36 (C.) (pending before the Legislature as this bill):
37 "Authority" means the New Jersey Economic Development
38 Authority established pursuant to section 4 of P.L.1974, c.80
39 (C.34:1B-4).

40 "Department" means the Department of Agriculture.

41 "Eligible equipment costs" means expenditures for the
42 procurement of such equipment as is needed to allow a mid-sized
43 food retailer or small food retailer to store, refrigerate, or otherwise
44 maintain nutritious foods, including fresh fruits and vegetables, for
45 retail purposes, but within a standard range based upon industry
46 standards, as determined by the authority.

47 "Eligible technology costs" means expenditures for the
48 procurement or upgrade of technology systems to support online

1 ordering and e-commerce, including but is not limited to computer
2 hardware, software, internet connectivity, and database systems.

3 "Food desert community" means a physically contiguous area in
4 the State in which residents have limited access to nutritious foods,
5 such as fresh fruits and vegetables, through supermarkets and grocery
6 stores, and which has been designated as a food desert community
7 pursuant to subsection b. of section 38 of P.L. , c. (C.)
8 (pending before the Legislature as this bill).

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

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

16 "Program" means the Food Desert Relief Program established in
17 section 38 of P.L. , c. (C.) (pending before the Legislature
18 as this bill).

19 "Project cost" means the costs incurred in connection with the
20 establishment of a supermarket or grocery store within a food desert
21 community by the developer until the opening of the supermarket or
22 grocery store to the public, including the costs relating to lands,
23 buildings, improvements, real or personal property, or any interest
24 therein, including leases discounted to present value, including lands
25 under water, riparian rights, space rights and air rights acquired,
26 owned, developed or redeveloped, constructed, reconstructed,
27 rehabilitated or improved, any environmental remediation costs, plus
28 costs not directly related to construction, of an amount not to exceed
29 20 percent of the total costs, capitalized interest paid to third parties,
30 and the cost of infrastructure improvements, including ancillary
31 infrastructure projects.

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

43 "Small food retailer" means a small retail outlet, with less than
44 2,500 square feet, that sells a limited selection of foods and other
45 products, such as a bodega, convenience store, corner store,
46 neighborhood store, small grocery, or small-scale store.

1 "Supermarket or grocery store" means a retail outlet with at least
2 16,000 square feet, of which at least 90 percent is occupied by food
3 and related products.
4

5 38. (New section) a. (1) There is established the Food Desert
6 Relief Program to be administered by the New Jersey Economic
7 Development Authority. The program shall include tax credit
8 components, as provided in sections 39 and 40 of P.L. , c.
9 (C. and C.) (pending before the Legislature as this bill), in
10 order to incentivize businesses to establish and retain new
11 supermarkets and grocery stores in food desert communities.

12 (2) The total value of tax credits approved by the authority
13 pursuant to sections 39 and 40 of P.L. , c. (C. and C.)
14 (pending before the Legislature as this bill) shall not exceed the
15 limitations set forth in section 98 of P.L. , c. (C.) (pending
16 before the legislature as this bill)..

17 b. The authority, in consultation with the Department of
18 Agriculture and the Department of Community Affairs, shall initially
19 designate not more than 50 separate geographic areas that are most
20 in need of a supermarket or grocery store as food desert communities
21 in this State. The Department of Agriculture and the Department of
22 Community Affairs shall develop criteria for the designation of food
23 desert communities, but each separate food desert community shall
24 consist of a distinct geographic area with a single defined border.
25 The criteria shall, at a minimum, incorporate analysis of municipal
26 or census tract poverty statistics, food desert information from the
27 Economic Research Service of the United States Department of
28 Agriculture, and healthier food retail tract information from the
29 federal Centers for Disease Control and Prevention. The departments
30 may also consider data related to municipal or census tract population
31 size and population density in making food desert community
32 designations pursuant to this subsection. The authority, in
33 consultation with the departments, shall continuously evaluate areas
34 previously designated as food desert communities and assess whether
35 they still meet the criteria for designation as a food desert community
36 and may designate additional food desert communities once every
37 three years following the effective date of sections 35 through 42 of
38 P.L. , c. (C.) (pending before the Legislature as this bill).

39 c. To receive a tax credit under section 39 or 40 of P.L. , c.
40 (C. or C.) (pending before the Legislature as this bill), a
41 taxpayer shall submit an application to the authority in the form and
42 manner prescribed by the authority and in accordance with criteria
43 established by the authority. Following the approval of an
44 application, the authority may, pursuant to an award agreement,
45 award tax credits to an eligible taxpayer that:

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

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

3 d. (1) The authority may sell all or a portion of the tax credits
4 made available in a fiscal year pursuant to subsection a. of this
5 section and dedicate the proceeds from such sale to provide grants
6 and loans to qualifying supermarkets, grocery stores, mid-sized food
7 retailers, and small food retailers. The amount of any grant or loan
8 provided pursuant to this subsection shall be in accordance with the
9 need of the supermarket, grocery store, mid-sized food retailer, or
10 small food retailer, as determined by the authority. The authority
11 shall sell tax credits pursuant to this section in the manner determined
12 by the authority; provided, however, the authority shall not sell tax
13 credits for less than 85 percent of the tax credit amount. Grants and
14 loans made available pursuant to this subsection shall be awarded to
15 entities that:

16 (a) are eligible for tax credits under subsection c. of this section in
17 lieu of tax credits; or

18 (b) own and operate a mid-sized food retailer or small food retailer
19 that commits to selling nutritious foods, including fresh fruits and
20 vegetables, in a designated food desert community.

21 (2) A mid-sized food retailer or small food retailer shall submit
22 an application to the authority to receive a grant or loan pursuant to
23 this subsection. The application shall be submitted in the form and
24 manner prescribed by the authority and in accordance with criteria
25 established by the authority. An entity eligible for a grant or loan
26 under subparagraph (a) of paragraph (1) of this subsection shall not
27 be required to submit a separate application to the authority for the
28 grant or loan, provided that the entity has submitted an application to
29 the authority pursuant to subsection c. of this section.

30 (3) Prior to awarding a grant or loan to a mid-sized food retailer
31 or small food retailer pursuant to this subsection, the Department of
32 Labor and Workforce Development, the Department of
33 Environmental Protection, and the Department of the Treasury shall
34 each report to the chief executive officer of the authority whether a
35 qualifying mid-sized food retailer or small food retailer is in
36 substantial good standing with the respective department, or has
37 entered into an agreement with the respective department that
38 includes a practical corrective action plan for the mid-sized food
39 retailer or small food retailer. The authority may also contract with
40 an independent third party to perform a background check on the
41 entity.

42 (4) A mid-sized food retailer or small food retailer shall, as
43 required at the discretion of the authority, submit to the authority
44 satisfactory information pertaining to the eligible equipment costs
45 and eligible technology costs, as certified by a certified public
46 accountant, certifications that all information provided by the mid-
47 sized food retailer or small food retailer to the authority is true,
48 including information contained in the application, any agreement

1 pertaining to the award of grants or loans under the program, any
2 amendment to such an agreement, and any other information
3 submitted by the mid-sized food retailer or small food retailer to the
4 authority pursuant to sections 35 through 42 of P.L. , c. (C.)
5 (pending before the Legislature as this bill), and evidence of the
6 eligible equipment costs and eligible technology costs of the mid-
7 sized food retailer or small food retailer. The mid-sized food retailer
8 or small food retailer, or an authorized agent of the mid-sized food
9 retailer or small food retailer, shall certify under the penalty of
10 perjury that the information provided pursuant to this subsection is
11 true.

12 e. The authority may provide technical assistance to any entity
13 that is eligible for a tax credit, grant, or loan under this section. The
14 technical assistance shall provide instructions to qualifying
15 supermarkets, grocery stores, and mid-sized food retailer or small
16 food retailers concerning best practices increasing the accessibility
17 of nutritious foods in food desert communities. Technical assistance
18 shall be made available in English as well as the two most commonly
19 spoken languages in New Jersey other than English. At the discretion
20 of the authority, technical assistance may be provided in addition to,
21 or in lieu of, any tax credit, grant, or loan awarded under sections 35
22 through 42 of P.L. , c. (C.) (pending before the Legislature
23 as this bill).

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

28 (a) to mitigate a project financing gap;

29 (b) to mitigate the initial operating costs of the supermarket or
30 grocery store; or

31 (c) to mitigate the eligible equipment costs or eligible technology
32 costs of the mid-sized food retailer or small food retailer in order to
33 make nutritious foods more accessible and affordable to residents
34 within food deserts; or

35 (d) to support initiatives to ensure food security of residents in
36 food desert communities.

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

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

44 (b) in the case of an entity eligible under paragraph (2) of
45 subsection c. of this section, the initial operating costs of the first
46 supermarket or grocery store in a designated food desert community,
47 and one-half of the initial operating costs of the second supermarket
48 or grocery store in the food desert community; and

1 (c) in the case of an entity eligible for a grant or loan under
2 subparagraph (b) of paragraph (1) of subsection d. of this section, the
3 eligible equipment costs and eligible technology costs of the mid-
4 sized food retailer or small food retailer.

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

14 h. (1) Except as provided in paragraph (2) of this subsection, a
15 labor harmony agreement shall be required if the State has a
16 proprietary interest in a supermarket or grocery store and the
17 agreement shall remain in effect for as long as the State acts as a
18 market participant in the project. The provisions of this paragraph
19 shall apply to a supermarket or grocery store that will have more than
20 10 employees.

21 (2) A labor harmony agreement under paragraph (1) of this
22 subsection shall not be required if the authority determines that the
23 supermarket or grocery store would not be feasible if a labor harmony
24 agreement is required. The authority shall support the determination
25 by a written finding, which provides the specific basis for the
26 determination.

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

1 determined represent substantial numbers of supermarket or grocery
2 store employees in the State.

3 i. The award agreement shall require that the recipient consent
4 to the disclosure of tax expenditure information as described in
5 paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
6 (C.52:27B-20a). A recipient shall certify that all factual
7 representations made by the recipient in the application or award
8 agreement are true under the penalty of perjury. A material
9 misrepresentation of fact in either the application or award agreement
10 may result in recession and recapture of any grants or tax credits
11 awarded, or acceleration of any loans made, under sections 35
12 through 42 of P.L. , c. (C.) (pending before the Legislature
13 as this bill).
14

15 39. (New section) a. For privilege periods beginning on or after
16 January 1 next following the effective date of sections 25 through 42
17 of P.L. , c. (C.) (pending before the Legislature as this bill),
18 a taxpayer eligible under subsection c. of section 38 of P.L. , c.
19 (C.) (pending before the Legislature as this bill) shall be awarded
20 a credit against the tax due pursuant to section 5 of P.L.1945, c.162
21 (C.54:10A-5). A taxpayer that qualifies for the award of a tax credit
22 under this section may claim 25 percent of the total amount awarded
23 in the privilege period in which the taxpayer establishes and opens
24 the supermarket or grocery store for business, and an additional 25
25 percent of the total amount awarded in each of the three privilege
26 periods next following the initial opening, provided that the
27 supermarket or grocery store remains in business and open to the
28 public. For a taxpayer to be allowed a tax credit pursuant to this
29 section, the taxpayer shall meet the requirements of this section, and
30 the rules and regulations adopted pursuant to section 41 of P.L. , c.
31 (C.) (pending before the Legislature as this bill).
32

33 b. The order of priority of the application of the credit allowed
34 pursuant to this section and any other credits allowed against the tax
35 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
36 privilege period shall be as prescribed by the Director of the Division
37 of Taxation in the Department of the Treasury, in consultation with
38 the chief executive office of the authority. The amount of the credit
39 applied pursuant to this section against the tax imposed pursuant to
40 section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce a
41 taxpayer's tax liability for a privilege period to an amount less than
42 the statutory minimum provided in subsection (e) of section 5 of
43 P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the
44 privilege period in which the certification is approved and any unused
45 portion thereof may be carried forward into the next 10 privilege
46 periods or until exhausted, whichever is earlier.

47 c. The authority shall award tax credits to taxpayers until either
48 the available tax credits are exhausted or all projects that are eligible
for a tax credit pursuant to the provisions of sections 35 through 42

1 of P.L. , c. (C.) (pending before the Legislature as this bill)
 2 receive a tax credit, whichever occurs first. If insufficient funding
 3 exists to allow a tax credit to a taxpayer in accordance with the
 4 provisions of subsection a. of section 38 of P.L. , c. (C.)
 5 (pending before the Legislature as this bill), the authority may offer
 6 the taxpayer a tax credit in an amount less than that provided in
 7 subsection a. of this section.

8 d. Prior to awarding a tax credit to a supermarket or grocery
 9 store, the Department of Labor and Workforce Development, the
 10 Department of Environmental Protection, and the Department of the
 11 Treasury shall each report to the chief executive officer of the
 12 authority whether a qualifying supermarket or grocery store is in
 13 substantial good standing with the respective department, or has
 14 entered into an agreement with the respective department that
 15 includes a practical corrective action plan for the supermarket or
 16 grocery store. The authority may also contract with an independent
 17 third party to perform a background check on the developer.

18 e. A supermarket or grocery store shall, as required at the
 19 discretion of the authority, submit to the authority satisfactory
 20 information pertaining to the project cost, project financing gap, and
 21 the initial operating costs, as certified by a certified public
 22 accountant, certifications that all information provided by the
 23 supermarket or grocery store to the authority is true, including
 24 information contained in the application, any agreement pertaining to
 25 the award of tax credits under the program, any amendment to such
 26 an agreement, and any other information submitted by the
 27 supermarket or grocery store to the authority pursuant to sections 35
 28 through 42 of P.L. , c. (C.) (pending before the Legislature
 29 as this bill), and evidence of the initial opening and continued
 30 operation of the supermarket or grocery store. The supermarket or
 31 grocery store, or an authorized agent of the supermarket or grocery
 32 store, shall certify under the penalty of perjury that the information
 33 provided pursuant to this subsection is true.
 34

35 40. (New section) a. For taxable years beginning on or after
 36 January 1 next following the effective date of sections 35 through 42
 37 of P.L. , c. (C.) (pending before the Legislature as this bill),
 38 a taxpayer eligible under subsection c. of section 38 of P.L. , c.
 39 (C.) (pending before the Legislature as this bill) shall be awarded
 40 a credit against the tax due pursuant to N.J.S.54A:1-1 et seq. A
 41 taxpayer that qualifies for the award of a tax credit under this section
 42 may claim 25 percent of the total amount awarded in the taxable year
 43 in which the taxpayer establishes and opens the supermarket or
 44 grocery store for business, and may claim 25 percent of the total
 45 amount awarded in each of the three taxable years next following the
 46 initial opening, provided that the supermarket or grocery store
 47 remains in business and open to the public. For a taxpayer to be
 48 awarded a tax credit pursuant to this section, the taxpayer shall meet

1 the requirements of this section, and the rules and regulations adopted
2 pursuant to section 41 of P.L. , c. (C.) (pending before the
3 Legislature as this bill).

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 N.J.S.54A:1-1 et seq. for a taxable year shall be
7 as prescribed by the Director of the Division of Taxation in the
8 Department of the Treasury, in consultation with the chief executive
9 officer of the authority. The amount of the credit applied pursuant to
10 this section against the tax imposed pursuant to N.J.S.54A:1-1 et seq.
11 shall not reduce a taxpayer's tax liability for a taxable year to an
12 amount less than zero. Any credit shall be valid in the taxable year in
13 which the certification is approved and any unused portion thereof
14 may be carried forward into the next 10 taxable years or until
15 depleted, whichever is earlier.

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

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

34 d. The authority shall award tax credits to taxpayers until either
35 the available tax credits are exhausted or all projects that are eligible
36 for a tax credit pursuant to the provisions of sections 35 through 42
37 of P.L. , c. (C.) (pending before the Legislature as this bill)
38 receive a tax credit, whichever occurs first. If insufficient funding
39 exists to allow a tax credit to a taxpayer in accordance with the
40 provisions of subsection a. of section 38 of P.L. , c. (C.)
41 (pending before the Legislature as this bill), the authority may offer
42 the taxpayer a tax credit in an amount less than that provided in
43 subsection a. of this section 40.

44 e. Prior to awarding a tax credit to a supermarket or grocery
45 store, the Department of Labor and Workforce Development, the
46 Department of Environmental Protection, and the Department of the
47 Treasury shall each report to the chief executive officer of the
48 authority whether a qualifying supermarket or grocery store, and each

1 contractor and subcontractor performing construction work at the
2 qualifying supermarket or grocery store, is in substantial good
3 standing with the respective department, or has entered into an
4 agreement with the respective department that includes a practical
5 corrective action plan. The authority may also contract with an
6 independent third party to perform a background check on the
7 developer.

8 f. A supermarket or grocery store shall, as required at the
9 discretion of the authority, submit to the authority satisfactory
10 information pertaining to the project cost, project financing gap, and
11 the initial operating costs, as certified by a certified public
12 accountant, certifications that all information provided by the
13 supermarket or grocery store to the authority is true, including
14 information contained in the application, any agreement pertaining to
15 the award of tax credits under the program, any amendment to such
16 an agreement, and any other information submitted by the
17 supermarket or grocery store to the authority pursuant to sections 35
18 through 42 of P.L. , c. (C.) (pending before the Legislature
19 as this bill), and evidence of the initial opening and continued
20 operation of the supermarket or grocery store. The supermarket or
21 grocery store, or an authorized agent of the supermarket or grocery
22 store, shall certify under the penalty of perjury that the information
23 provided pursuant to this subsection is true.
24

25 41. (New section) The authority, in consultation with the
26 department and the Director of the Division of Taxation in the
27 Department of the Treasury, shall adopt, pursuant to the
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.), rules and regulations necessary to carry out the provisions of
30 sections 35 through 42 of P.L. , c. (C.) (pending before the
31 Legislature as this bill).
32

33 42. (New section) Within one year of the effective date of sections
34 35 through 42 of P.L. , c. (C.) (pending before the Legislature
35 as this bill), the authority shall annually submit a report to the
36 Governor, the State Treasurer, and, pursuant to section 2 of P.L.1991,
37 c.164 (C.52:14-19.1), the Legislature, on the effectiveness of the
38 program in establishing supermarkets and grocery stores in food
39 desert communities.
40

41 43. (New section) Sections 43 through 53 of P.L. , c. (C.)
42 (pending before the Legislature as this bill) shall be known and may
43 be cited as the "New Jersey Community-Anchored Development
44 Act."
45

46 44. (New section) The purpose of the New Jersey Community-
47 Anchored Development Act is for the New Jersey Economic
48 Development Authority to facilitate, in partnership with the State's

1 key not-for-profit and governmental anchor institutions, large-scale
2 development projects with desirable employment and geographical
3 characteristics that are to impact a broader community. The
4 Legislature finds that where a broad commonality of goals exists
5 between anchor institutions and the State, the authority can
6 effectively utilize anchor institutions as investors in, and additional
7 overseers of, projects that the authority seeks to incentivize. Under
8 the legislation, anchor institutions in the areas of education, health
9 care, culture, community development, and economic development
10 are provided with the opportunity to act as investors in targeted
11 development, utilizing proceeds from the sale of State tax credits.
12 This approach harnesses the deep experience of the numerous anchor
13 institutions in the State, institutions that enjoy decades-long
14 relationships with communities around the State, making them ideal
15 partners for companies wanting to come to or expand in New Jersey.

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

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

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

47 The tax credits issued by the authority to an applicant anchor
48 institution are to be issued pursuant to a tax credit agreement that sets

1 forth negotiated terms on which the authority has agreed to issue the
2 credits. The tax credit agreement is to include standards relating to
3 the anticipated economic results of the community-anchored project
4 and address accountability in the event that the community-anchored
5 project fails to meet the requirements specified in the tax credit
6 agreement.

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

15
16 45. (New section) As used in sections 43 through 53 of P.L. , c.
17 (C.) (pending before the Legislature as this bill):

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

32 "Anchor institution" means a governmental entity or nonprofit
33 entity incorporated pursuant to Title 15 of the Revised Statutes or
34 Title 15A of the New Jersey Statutes having a primary mission and
35 specific policy goals that align with those of the authority under the
36 program and that is a comprehensive health care system, a public
37 research university, a private research university, a major cultural
38 scientific, research and philanthropic institutions, or public colleges
39 which are separate from public research universities, certified as an
40 anchor institution by the board pursuant to subsection a. of section
41 46 of P.L. , c. (C.) (pending before the Legislature as this
42 bill).

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

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

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

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

24 "Comprehensive health care system" means an entity in this State
25 with the primary purpose of offering comprehensive health care
26 services. "Comprehensive health care system" shall not include any
27 business that manages or offers one or more health benefits plans.

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

42 "Director" means the Director of the Division of Taxation in the
43 Department of the Treasury.

44 "Eligibility period" means the period in which an anchor
45 institution may claim, sell, transfer, or otherwise use a tax credit
46 under the New Jersey Community-Anchored Development Program,
47 beginning with the tax period in which the authority accepts
48 certification of the business that it has met the capital investment

1 requirements of the program and extending thereafter for a term of
2 not more than 10 years.

3 "Eligible position" means a full-time position in a business in this
4 State which the business has filled with a full-time employee. An
5 eligible position shall not include an independent contractor or a
6 consultant.

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

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

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

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

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

37 "Private research university" means Princeton University and any
38 other institution of higher education in this State designated by the
39 board as a private research university, based on criteria and metrics
40 established by the board.

41 "Program" means the New Jersey Community-Anchored
42 Development Program established pursuant to section 46 of P.L. ,
43 c. (C.) (pending before the Legislature as this bill).

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

47 "Qualified business accelerator or incubator facility" means a
48 commercial space that contains office, laboratory, or industrial space

1 and which is located near, and presents opportunities for
2 collaboration with, a public research university, a private research
3 university, teaching hospital, college, or university, and within which
4 at least 50 percent of the gross leasable area is restricted for use by
5 one or more targeted industry start-up companies during the
6 commitment period.

7 "Targeted industry" means any industry identified from time to
8 time by the authority which shall initially include advanced
9 transportation and logistics, advanced manufacturing, aviation,
10 autonomous vehicle and zero-emission vehicle research or
11 development, clean energy, life sciences, hemp processing,
12 information and high technology, finance and insurance, professional
13 services, film and digital media, and non-retail food and beverage
14 businesses, including food innovation and other innovative industries
15 that disrupt current technologies or business models.

16 "Tax credit agreement" means a tax credit agreement entered into
17 pursuant to section 50 of P.L. , c. (C.) (pending before the
18 Legislature as this bill) between the authority and an anchor
19 institution.

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

23

24 46. (New section) a. The New Jersey Community-Anchored
25 Development Program is established as a program under the
26 jurisdiction of the New Jersey Economic Development Authority.
27 The authority shall administer the program to invest in and
28 incentivize the expansion of targeted industries in the State and the
29 continued development of certain areas of the State through the
30 provision of tax credits to anchor institutions. The board shall certify
31 qualified anchor institutions based on the requirements of sections 43
32 through 53 of P.L. , c. (C.) (pending before the Legislature
33 as this bill), and may approve the award of a tax credit to an anchor
34 institution pursuant to sections 47 and 48 of P.L. , c. (C. and
35 C.) (pending before the Legislature as this bill). The value of
36 all tax credits approved by the authority to anchor institutions under
37 the program shall be subject to the limitations set forth in section 98
38 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

45 (2) (a) The authority may award a tax credit to an anchor
46 institution under the program, which the anchor institution shall
47 convert into an investment by the authority in a community-anchored
48 project, subject to the condition that the anchor institution either sell

1 and transfer the tax credit, or adopt a plan to use the tax credit in
2 order to finance the completion of the community-anchored project,
3 which condition shall be included in the tax credit agreement entered
4 into pursuant to section 50 of P.L. , c. (C.) (pending before
5 the Legislature as this bill). An anchor institution receiving tax
6 credits under the program shall use the proceeds derived from the
7 sale or financing of the tax credits to make an equity investment in
8 or to provide a loan or other financial support for the community-
9 anchored project that will permit the anchor institution, and, if
10 applicable, a partner business, to develop the community-anchored
11 project and to attract tenants, owners, investors, lenders, partners,
12 collaborators, and other beneficial parties to the community-
13 anchored project. A tax credit agreement, entered into pursuant to
14 section 50 P.L. , c. (C.) (pending before the Legislature as
15 this bill) shall detail the terms by which an anchor institution will
16 convert the award of tax credits into an investment by the authority
17 into the community-anchored project, subject to potential returns on
18 investment to the authority based on an agreed-upon formula for the
19 distribution of returns, including upon the sale of a community-
20 anchored project or at the end of the commitment period. For
21 community-anchored projects financed solely by governmental and
22 nonprofit entity investments, the authority shall negotiate an agreed
23 upon formula which shall include, but not be limited to, the potential
24 recapture of the value of the tax credits awarded. For community-
25 anchored projects that are not financed solely by governmental and
26 nonprofit entity investments, the authority shall negotiate an agreed
27 upon formula which shall include, but not be limited to, the potential
28 recapture of the value of the tax credits awarded and additional
29 returns on investment. The tax credit agreement shall, however,
30 specify that the authority's interest in the community-anchored
31 project shall be subordinate to the investments made by an anchor
32 institution and partner businesses. References to investments and
33 returns in sections 43 through 53 of P.L. , c. (C.) (pending
34 before the Legislature as this bill) shall also include loans and other
35 financial support and their corresponding returns.

36 (b) Consistent with an applicable tax credit agreement, a tax
37 credit awarded to an anchor institution for conversion into an
38 authority investment, as provided pursuant to subparagraph (a) of this
39 paragraph, may be applied against tax liability otherwise due
40 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to
41 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
42 pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to
43 N.J.S.17B:23-5.

44 (3) The authority shall develop protocols for assumptions testing
45 relating to projected and actual returns on investment under the
46 program and regularly analyze the returns on investment received by
47 the authority under the program, and shall evaluate future

1 applications and projections considering the results of the
2 assumptions testing and analysis.

3 c. The authority shall engage in program evaluation and
4 assumptions testing to ensure that the authority at least recaptures the
5 value of the tax credits awarded to all anchor institutions and realizes
6 additional returns on investment under the program; provided,
7 however, that for community-anchored projects financed solely by
8 governmental and nonprofit entity investments, the authority may
9 negotiate a potential return on investment, the calculation of which
10 would include, but not be limited to, recapture of the value of the tax
11 credits awarded for those community-anchored projects financed
12 solely by governmental and nonprofit entities.

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

16

17 47. (New section) a. An anchor institution shall be eligible to
18 receive a tax credit under the program only if the anchor institution
19 submits a program application to the authority that results in
20 completion of a community-anchored project through a capital
21 investment in a New Jersey State opportunity zone or, if the
22 community-anchored project is primarily designed to result in the
23 economic expansion of a targeted industry in this State, in an area of
24 the State designated pursuant to the "State Planning Act," P.L.1985,
25 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or
26 in a municipality with a Municipal Revitalization Index distress score
27 of at least 50.

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

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

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

42 (3) that the anchor institution, along with any partner business
43 participating in a community-anchored project, has not commenced
44 any construction at the site of the community-anchored project prior
45 to submitting an application, unless the authority determines that the
46 community-anchored project would not be completed otherwise or,
47 in the event the community-anchored project is to be undertaken in

- 1 phases, the requested tax credit covers only phases for which
2 construction has not yet commenced;
- 3 (4) the value of the tax credit that is necessary in each year of the
4 eligibility period, in order for the anchor institution to finance the
5 establishment of the community-anchored project;
- 6 (5) the total aggregate value of the tax credit for the entire
7 eligibility period that is necessary in order for the anchor institution
8 to finance the establishment of the community-anchored project;
- 9 (6) that the award of tax credits under the program will be
10 converted into an investment by the authority into the community-
11 anchored project, and demonstrate to the authority the anticipated
12 current and deferred returns, as applicable, on that investment;
- 13 (7) that the community-anchored project shall comply with the
14 standards established by the authority through regulation based on
15 the green building manual prepared by the Commissioner of
16 Community Affairs pursuant to section 1 of P.L.2007, c. 132
17 (C.52:27D-130.6), regarding the use of renewable energy, energy-
18 efficient technology, and non-renewable resources in order to reduce
19 environmental degradation and encourage long-term cost reduction;
- 20 (8) that the community-anchored project shall comply with the
21 authority's affirmative action requirements, adopted pursuant to
22 section 4 of P.L.1979, c.303 (C.34:1B-5.4);
- 23 (9) a description of the significant economic, social, planning,
24 employment, environmental, fiscal, and other benefits that would
25 accrue to the State, county, or municipality from the community-
26 anchored project;
- 27 (10) that each worker and subcontractor working on construction
28 of the community-anchored project prior to the start of the eligibility
29 period shall be paid not less than \$15 per hour or 120 percent of the
30 minimum wage fixed under subsection a. of section 5 of P.L.1966,
31 c.113 (C.34:11-56a4), whichever is higher;
- 32 (11) that during the eligibility period, each worker employed to
33 perform construction work and building services work at the
34 community-anchored project shall be paid not less than the prevailing
35 wage rate for the worker's craft or trade, as determined by the
36 Commissioner of Labor and Workforce Development pursuant to
37 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
38 (C.34:11-56.58 et seq.). In the event the community-anchored
39 project constitutes a lease of more than 55 percent of a single facility,
40 these requirements shall apply to the entire facility;
- 41 (12) that during the eligibility period, the anchor institution shall
42 partner with one or more local community organizations that provide
43 support and services to Work First New Jersey program recipients, in
44 order to provide work activity opportunities and other appropriate
45 services to Work First New Jersey program recipients, which
46 activities and services may include, but shall not be limited to: work-
47 study programs, internships, sector-based contextualized literacy

- 1 training, skills-based training in growth industries in the State, and
2 job retention and advancement services;
- 3 (13) the extent to which the community-anchored development
4 will result in the expansion of a targeted industry in this State;
- 5 (14) that the timing of the award and investment of tax credits
6 under the program shall allow for the successful completion and
7 operation of the community-anchored project; and
- 8 (15) that the community-anchored project is viable and that the
9 anchor institution is a credible partner for completing the
10 community-anchored project and providing the agreed-upon
11 potential returns to the authority, as detailed in the tax credit
12 agreement entered into pursuant to section 50 of P.L. , c. (C.)
13 (pending before the Legislature as this bill).
- 14 c. Prior to the board considering an application submitted by an
15 anchor institution, the Department of Labor and Workforce
16 Development, the Department of Environmental Protection, and the
17 Department of the Treasury shall each report to the chief executive
18 officer of the authority whether the anchor institution and any partner
19 business is in substantial good standing with the respective
20 department, or has entered into an agreement with the respective
21 department that includes a practical corrective action plan anchor
22 institution or partner business. The authority may also contract with
23 an independent third party to perform a background check on an
24 anchor institution and any partner business.
- 25 d. In order to facilitate the creation of new partnerships with
26 anchor institutions, the authority shall publish on the authority's
27 website a list of names and contact information for each anchor
28 institution that has submitted an application pursuant to this section.
29
- 30 48. (New section) a. Prior to March 1, 2027, an anchor institution
31 seeking a tax credit pursuant to the program shall submit an
32 application to the authority in a form and manner prescribed in
33 regulations adopted by the authority pursuant to the provisions of the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.). The authority shall accept and certify applications for tax
36 credits during the award rounds established pursuant to section 49 of
37 P.L. , c. (C.) (pending before the Legislature as this bill).
- 38 b. The authority shall not consider an application for a
39 community-anchored project unless the anchor institution submits,
40 with the application, a letter evidencing support for the community-
41 anchored project from the governing body of the municipality in
42 which the community-anchored project is located.
- 43 c. The authority shall review the project costs for a proposed
44 community-anchored project and evaluate and validate the
45 underlying financial structure proposed by the anchor institution.
46 The authority shall conduct a State fiscal impact analysis to ensure
47 that the overall value of tax credits provided to the community-
48 anchored project is projected to result in net benefits to the State,

1 taking into account the current and deferred returns to the authority.
2 The authority shall assess the cost of these reviews to the applicant.
3 An anchor institution shall pay to the authority the full amount of the
4 direct costs of an analysis concerning the anchor institution's
5 application for tax credits that a third party retained by the authority
6 performs, if the authority deems such retention to be necessary.

7 d. If at any time during the eligibility period the authority
8 determines that an anchor institution made a material
9 misrepresentation on the program application, the anchor institution
10 shall forfeit or repay to the authority the value of tax credits
11 associated with that application.
12

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

18 b. (1) The authority shall review applications for tax credits
19 submitted to the authority by the deadline date of the award round
20 and shall evaluate each application as if it were received on the
21 deadline date, without providing any preference for early
22 submissions. To determine priority for an award of a tax credit, all
23 applications for community-anchored projects that satisfy the criteria
24 set forth in sections 47 and 48 of P.L. , c. (C. and)
25 (pending before the Legislature as this bill) in a given award round
26 shall be ranked on the basis of a scoring system developed by the
27 authority through regulations adopted pursuant to the provisions of
28 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.). Prior to the commencement of an award round, the authority
30 shall determine the minimum score for the award round that an
31 anchor institution is required to attain to be eligible for a tax credit.

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

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

41 (1) the amount of tax credit requested by the anchor institution
42 compared to the overall investments required for the completion of
43 the community-anchored project, along with the amount of the
44 potential return on the authority's investment of tax credits to the
45 State by the end of the commitment period, the amount of the tax
46 credit, if any, that is unlikely to be realized as a return on investment
47 to the State, and the proposed terms and structure for the authority's

- 1 investment in the project, including applicable current and deferred
- 2 returns;
- 3 (2) the financial benefit of the community-anchored project to the
- 4 community in which the community-anchored project will be
- 5 located;
- 6 (3) apprenticeships or workforce programs to be offered because
- 7 of the community-anchored project;
- 8 (4) the ability of the community-anchored project to absorb and
- 9 adapt to changing environmental conditions and deliver its
- 10 objectives;
- 11 (5) how the community-anchored project will advance State,
- 12 regional, and local development and planning strategies;
- 13 (6) the relationship of the community-anchored project to a
- 14 comprehensive local development strategy, including its relation to
- 15 other development and redevelopment projects in the municipality;
- 16 (7) the degree to which the community-anchored project
- 17 enhances and promotes job creation and economic development;
- 18 (8) the extent of economic and related social distress in the
- 19 municipality and the immediate area surrounding the community-
- 20 anchored project;
- 21 (9) the extent to which the community-anchored project provides
- 22 for the development of workforce housing and housing for
- 23 individuals with special needs;
- 24 (10) the extent to which the community-anchored project
- 25 constitutes the expansion of the anchor institution to different areas
- 26 of the State;
- 27 (11) the extent to which the community-anchored project provides
- 28 for infrastructure, parking, retail, green space, or other public
- 29 amenities creating a mixed-use community-anchored project;
- 30 (12) the inclusion of a qualified business accelerator or incubator
- 31 facility as a part of the community-anchored project;
- 32 (13) the length of the commitment period for the community-
- 33 anchored project;
- 34 (14) the quality and number of new full-time jobs that will be
- 35 created by the anchor institution or a partner business at the
- 36 community-anchored project;
- 37 (15) the quality and number of existing full-time jobs that will be
- 38 retained by the anchor institution or a partner business in the State as
- 39 a result of completing the community-anchored project, with the
- 40 criteria specifying, in scoring the application, that the retention of an
- 41 existing full-time job shall be given not more than one-third the
- 42 weight of a new full-time job of a similar quality; and
- 43 (16) if the anchor institution has a board of directors, the extent
- 44 to which that board of directors is diverse and representative of the
- 45 community in which the community-anchored project is located.
- 46 d. Notwithstanding the provisions of subsection c. of this
- 47 section, the authority may adopt, pursuant to the provisions of the
- 48 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), rules and regulations adjusting competitive criteria required
2 under the program when necessary to respond to the prevailing
3 economic conditions in the State.

4 e. Prior to the award of a tax credit to an anchor institution, to
5 be converted into an authority investment in a community-anchored
6 project, the Department of Labor and Workforce Development, the
7 Department of Environmental Protection, and the Department of the
8 Treasury shall each report to the chief executive officer of the
9 authority as to whether the anchor institution, along with any partner
10 business identified in a program application, and each contractor and
11 subcontractor performing work at the community-anchored project,
12 is in substantial good standing with the respective department, or has
13 entered into an agreement with the respective department that
14 includes a practical corrective action plan. Provided that all parties
15 are in substantial good standing, or have entered into such an
16 agreement, the authority shall allocate tax credits to community-
17 anchored projects according to the community-anchored project's
18 score and until either the available tax credits are exhausted or all
19 community-anchored projects obtaining the minimum score receive
20 a tax credit, whichever occurs first. If insufficient funding exists to
21 fully fund all eligible community-anchored projects, a community-
22 anchored project may be offered partial funding.

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

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

32
33 50. (New section) a. Following approval and selection of an
34 application pursuant to sections 48 and 49 of P.L. , c. (C.)
35 (pending before the Legislature as this bill), the authority shall enter
36 into a tax credit agreement with the anchor institution. The chief
37 executive officer of the authority shall negotiate the terms and
38 conditions of the tax credit agreement on behalf of the State.

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

1 (2) If, as a result of a default under the tax credit agreement, the
2 authority rescinds a tax credit in the same calendar year in which the
3 authority approved the tax credit, then the authority may assign the
4 tax credit to another applicant that attained the minimum score
5 determined pursuant to section 49 of P.L. , c. (C.) (pending
6 before the Legislature as this bill).

7 c. The terms of the tax credit agreement shall:

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

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

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

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

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

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

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

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

42 (9) specify other measures through which the authority shall
43 ensure oversight of outstanding tax credit investments, and, in the
44 event that an anchor institution fails to meet its obligations under the
45 tax credit agreement or any program requirement, establish the right
46 of the authority to assume direct oversight of any or all projects for
47 which the anchor institution has entered into investment agreements

1 and require the anchor institution to pursue any remedies it may have
2 against a partner business;

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

6 (11) require that any partner business of an anchor institution
7 consent to the disclosure of tax expenditure information as described
8 in paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
9 (C.52:27B-20a).

10 d. The tax credit agreement shall include a requirement that the
11 chief executive officer of the authority receive annual reports from
12 the anchor institution that are to include separate certifications by the
13 Department of Environmental Protection, the Department of Labor
14 and Workforce Development, and the Department of the Treasury
15 demonstrating that the anchor institution, any partner business, and
16 each contractor and subcontractor performing work at the
17 community-anchored project is in substantial good standing with that
18 department, or have entered into an agreement with that department
19 that includes a corrective action plan, and the tax credit agreement
20 shall include a provision that the anchor institution shall forfeit the
21 tax credit in any year in which an uncured default exists under the tax
22 credit agreement. The tax credit agreement shall, however, allow the
23 authority to extend, in individual cases, the deadline for any annual
24 reporting or certification requirement.

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

32

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

41 b. An anchor institution may be allowed a tax credit in excess of
42 the base amount, if approved by the authority, provided, however, the
43 total tax credit allowed per community-anchored project shall not
44 exceed \$75,000,000 and the total investment of all State resources in
45 a community-anchored project shall not exceed 40 percent of the total
46 cost of the project.

1 52. (New section) a. An anchor institution that is awarded a tax
2 credit under sections 43 through 53 of P.L. , c. (C.) (pending
3 before the Legislature as this bill) shall, commencing in the year in
4 which the tax credit is awarded, and each year thereafter for the
5 remainder of the eligibility period, submit a report indicating whether
6 the anchor institution is aware of any condition, event, or act that
7 would cause the anchor institution not to be in compliance with the
8 tax credit agreement or the provisions of sections 43 through 53 of
9 P.L. , c. (C.) (pending before the Legislature as this bill) and
10 any additional reporting requirements contained in the tax credit
11 agreement or tax credit certificate. The anchor institution, or an
12 authorized agent of the anchor institution, shall certify under the
13 penalty of perjury that the information provided pursuant to this
14 subsection is true.

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

22 (a) offer for sale through the provision of a tax credit transfer
23 certificate pursuant to section 53 of P.L. , c. (C.) (pending
24 before the Legislature as this bill); or

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

31 (2) Upon receipt by the director of the certificate of compliance,
32 the director shall coordinate with the anchor institution and the
33 authority to provide the anchor institution with a tax credit transfer
34 certificate, as described in section 53 of P.L. , c. (C.) (pending
35 before the Legislature as this bill), or a tax credit certificate for the
36 value awarded by the authority for that year that the anchor institution
37 may use as provided in paragraph (1) of this subsection b. and in
38 accordance with the rules adopted pursuant to subparagraph (b) of
39 paragraph (1) of this subsection.

40

41 53. (New section) a. An anchor institution may apply to the
42 director and the chief executive officer of the authority for a tax credit
43 transfer certificate, covering one or more years. The tax credit
44 transfer certificate, upon receipt thereof by the anchor institution
45 from the director and the chief executive officer of the authority, may
46 be sold or assigned, in full or in part, in the privilege period during
47 which the anchor institution receives the tax credit transfer certificate
48 from the director, to another person, who may apply the credit against

1 a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
 2 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
 3 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

4 b. The anchor institution shall not sell or assign, including a
 5 collateral assignment, a tax credit transfer certificate allowed under
 6 this section for consideration received by the anchor institution of
 7 less than 85 percent of the transferred credit amount before
 8 considering any further discounting to present value which shall be
 9 permitted. The tax credit transfer certificate issued to an anchor
 10 institution by the director shall be subject to any limitations and
 11 conditions imposed on the application of State tax credits pursuant to
 12 sections 43 through 53 of P.L. , c. (C.) (pending before the
 13 Legislature as this bill) and any other terms and conditions that the
 14 director may prescribe.

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

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

- 22 (1) the name of the transferor;
- 23 (2) the name of the transferee;
- 24 (3) the value of the tax credit transfer certificate;
- 25 (4) the State tax against which the transferee may apply the tax
- 26 credit; and
- 27 (5) the consideration received by the transferor.

28
 29 54. (New section) Sections 54 through 67 of P.L. , c. (C.)
 30 (pending before the Legislature as this bill) shall be known and may
 31 be cited as the "New Jersey Aspire Program Act."
 32

33 55. (New section) As used in sections 54 through 67 of P.L. , c.
 34 (C.) (pending before the Legislature as this bill):

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

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

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

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

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

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

14 "Collaborative workspace" means coworking, accelerator,
15 incubator, or other shared working environments that promote
16 collaboration, interaction, socialization, and coordination among
17 tenants through the clustering of multiple businesses or individuals.
18 For this purpose, the collaborative workspace shall be the greater of:
19 2,500 of dedicated square feet or 10 percent of the total property on
20 which the redevelopment project is situated. The collaborative
21 workspace shall include a community manager, be focused on
22 collaboration among the community members, and include regularly
23 scheduled education events for the community members. The
24 collaborative workspace shall also include a physical open space that
25 supports the engagement of its community members.

26 "Commercial project" means a building, which is predominantly
27 commercial and contains 100,000 or more square feet of office and
28 retail space, industrial space, or film studios, professional stages,
29 television studios, recording studios, screening rooms, or other
30 infrastructure for film production, for purchase or lease and may
31 include a parking component.

32 "Developer" means a person who enters or proposes to enter into
33 an incentive award agreement pursuant to the provisions of section
34 62 of P.L. , c. (C.) (pending before the Legislature as this
35 bill), including, but not limited, to a lender that completes a
36 redevelopment project, operates a redevelopment project, or
37 completes and operates a redevelopment project.

38 "Director" means the Director of the Division of Taxation in the
39 Department of the Treasury.

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

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

7 "Eligibility period" means the period not to exceed 15 years for a
8 commercial or mixed-use project or the period not to exceed 10 years
9 for a residential project specified in an incentive award agreement
10 during which a developer may claim a tax credit under the program.

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

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

21 "Government-restricted municipality" means a municipality in
22 this State with a municipal revitalization index distress score of at
23 least 7, that met the criteria for designation as an urban aid
24 municipality in the 2019 State fiscal year, and that, on the effective
25 date of P.L. , c. (C.) (pending before the Legislature as this
26 bill), is subject to financial restrictions imposed pursuant to the
27 Municipal Stabilization and Recovery Act of 2016, P.L.2016, c.4
28 (52:27BBB-1), or is restricted in its ability to levy property taxes
29 on property in that municipality as a result of the State of New Jersey
30 owning or controlling property representing at least 25 percent of the
31 total land area of the municipality or as a result of the federal
32 government of the United States owning or controlling at least 50
33 acres of the total land area of the municipality, which is dedicated as
34 a national natural landmark.

35 "Health care or health services center" means an establishment
36 where patients are admitted for examination and treatment by one or
37 more physicians, dentists, psychologists, or other medical
38 practitioners.

39 "Incentive area" means an area designated pursuant to the "State
40 Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning
41 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated
42 Center, , provided an area designated as Planning Area 2 (Suburban)
43 or a Designated Center shall be located within a one-half mile radius
44 of the mid-point, with bicycle and pedestrian connectivity, of a New
45 Jersey Transit Corporation, Port Authority Transit Corporation, or
46 Port Authority Trans-Hudson Corporation rail, bus, or ferry station,
47 including all light rail stations, or a high frequency bus stop as
48 certified by the New Jersey Transit Corporation.

1 "Incentive award" means an award of tax credits to reimburse a
2 developer for all or a portion of the project financing gap of a
3 redevelopment project pursuant to the provisions of sections 54
4 through 67 of P.L. , c. (C.) (pending before the Legislature
5 as this bill).

6 "Incentive award agreement" means the contract executed
7 between a developer and the authority pursuant to section 62 of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 which sets forth the terms and conditions under which the developer
10 may receive the incentive awards authorized pursuant to the
11 provisions of sections 54 through 67 of P.L. , c. (C.) (pending
12 before the Legislature as this bill).

13 "Incubator facility" means a commercial property, which contains
14 5,000 or more square feet of office, laboratory, or industrial space,
15 which is located near, and presents opportunities for collaboration
16 with, a research institution, teaching hospital, college, or university,
17 and within which at least 75 percent of the gross leasable area is
18 restricted for use by one or more technology startup companies.

19 "Individuals with special needs" means individuals with mental
20 illness, individuals with physical or developmental disabilities, and
21 individuals in other emerging special needs groups identified by the
22 authority, based on guidelines established for the administration of
23 the Special Needs Housing Trust Fund established pursuant to
24 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
25 consultation with other State agencies.

26 "Low-income housing" means housing affordable according to
27 federal Department of Housing and Urban Development or other
28 recognized standards for home ownership and rental costs and
29 occupied or reserved for occupancy by households with a gross
30 household income equal to 50 percent or less of the median gross
31 household income for households of the same size within the housing
32 region in which the housing is located.

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

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

47 "Municipal Revitalization Index" means the index by the
48 Department of Community Affairs ranking New Jersey's

1 municipalities according to eight separate indicators that measure
2 diverse aspects of social, economic, physical, and fiscal conditions
3 in each locality.

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

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

9 b. a 15-mile radius of the outermost boundary of each marine
10 terminal facility established, acquired, constructed, rehabilitated, or
11 improved by the South Jersey Port District established pursuant to
12 "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-
13 1 et seq.).

14 "Program" means the New Jersey Aspire Program established by
15 section 56 of P.L. , c. (C.) (pending before the Legislature
16 as this bill).

17 "Project cost" means the costs incurred in connection with a
18 redevelopment project by a developer until the issuance of a
19 permanent certificate of occupancy, or until such other time specified
20 by the authority, for a specific investment or improvement, including
21 the costs relating to lands, buildings, improvements, real or personal
22 property, or any interest therein, including leases discounted to
23 present value, including lands under water, riparian rights, space
24 rights, and air rights acquired, owned, developed or redeveloped,
25 constructed, reconstructed, rehabilitated, or improved, any
26 environmental remediation costs, plus costs not directly related to
27 construction, of an amount not to exceed 20 percent of the total costs,
28 capitalized interest paid to third parties, and the cost of infrastructure
29 improvements, including ancillary infrastructure projects. The cost
30 of acquisition of land or fees associated with the application or
31 administration of a grant under sections 54 through 67 of P.L. , c.
32 (C.) (pending before the Legislature as this bill) shall not
33 constitute a project cost.

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

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

47 "Qualified incentive tract" means (i) a population census tract
48 having a poverty rate of 20 percent or more; or (ii) a census tract in

1 which the median family income for the census tract does not exceed
2 80 percent of the greater of the Statewide median family income or
3 the median family income of the metropolitan statistical area in
4 which the census tract is situated.

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

10 "Redevelopment project" means a specific construction project or
11 improvement undertaken by a developer, owner or tenant, or both,
12 and any ancillary infrastructure project. A redevelopment project
13 may involve construction or improvement upon lands, buildings,
14 improvements, or real and personal property, or any interest therein,
15 including lands under water, riparian rights, space rights, and air
16 rights, acquired, owned, developed or redeveloped, constructed,
17 reconstructed, rehabilitated, or improved.

18 "Residential project" means a redevelopment project that is
19 predominantly residential, intended for multi-family residency, and
20 may include a parking component.

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

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

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

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

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

42 "Transit hub municipality" means a Transit Village or a
43 municipality: a. which qualifies for State aid pursuant to P.L.1978,
44 c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified
45 municipality thereunder pursuant to P.L.2007, c.111; and b. in which
46 30 percent or more of the value of real property was exempt from
47 local property taxation during tax year 2006. The percentage of
48 exempt property shall be calculated by dividing the total exempt

1 value by the sum of the net valuation which is taxable and that which
2 is tax exempt.

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

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

14

15 56. (New section) a. The New Jersey Aspire Program is hereby
16 established as a program under the jurisdiction of the New Jersey
17 Economic Development Authority. The authority shall administer
18 the program to encourage redevelopment projects through the
19 provision of incentive awards to reimburse developers for certain
20 project financing gap costs. The board may approve the award of an
21 incentive award to a developer upon application to the authority
22 pursuant to sections 58 and 59 of P.L. , c. (C. , C. , and
23 C.) (pending before the Legislature as this bill). The value of
24 all tax credits approved by the authority pursuant to sections 54
25 through 67 of P.L. , c. (C.) (pending before the Legislature
26 as this bill), shall be subject to the limitations set forth in section 98
27 of P.L. , c. (C.) (pending before the Legislature as this bill).

28 b. The chief executive officer of the authority shall designate
29 one staff member per government-restricted municipality in order to
30 keep the municipality informed on activities within the municipality
31 and to coordinate economic development initiatives.

32

33 57. (New section) a. Prior to March 1, 2027, a developer shall be
34 eligible to receive an incentive award for a redevelopment project
35 only if the developer demonstrates to the authority at the time of
36 application that:

37 (1) without the incentive award, the redevelopment project is not
38 economically feasible;

39 (2) a project financing gap exists, or the authority determines that
40 the redevelopment project will generate a below market rate of
41 return;

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

43 (4) except for demolition and site remediation activities, the
44 developer has not commenced any construction at the site of the
45 redevelopment project prior to submitting an application, unless the
46 authority determines that the redevelopment project would not be
47 completed otherwise or, in the event the redevelopment project is to

1 be undertaken in phases, the requested incentive award is limited to
2 only phases for which construction has not yet commenced;

3 (5) the redevelopment project shall comply with minimum
4 environmental and sustainability standards;

5 (6) the redevelopment project shall comply with the authority's
6 affirmative action requirements, adopted pursuant to section 4 of
7 P.L.1979, c.203 (C.34:1B-5.4);

8 (7) each worker employed or subcontractor of a developer
9 working at a redevelopment project, 80 percent or more of which is
10 operated by the developer, shall be paid not less than \$15 per hour or
11 120 percent of the minimum wage fixed under subsection a. of
12 section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;

13 (8) during the eligibility period, each worker employed to
14 perform construction work or building services work at the
15 redevelopment project shall be paid not less than the prevailing wage
16 rate for the worker's craft or trade, as determined by the
17 Commissioner of Labor and Workforce Development pursuant to
18 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
19 (C.34:11-56.58 et seq.). In the event a redevelopment project is
20 undertaken by a tenant and the tenant has a leasehold of more than
21 55 percent of space in the building owned or controlled by the
22 developer, the requirement that each worker employed to perform
23 building service work at the building be paid not less than the
24 prevailing wage shall apply to the entire building;

25 (9) the redevelopment project shall be completed, and the
26 developer shall be issued a certificate of occupancy for the
27 redevelopment project facilities by the applicable enforcing agency
28 within four years of executing the incentive award agreement
29 corresponding to the redevelopment project;

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

35 (11) the developer is not more than 24 months in arrears at the
36 time of application.

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

40 (1) the incremental increase of State revenues realized from the
41 commercial project upon its completion shall be in excess of the
42 amount necessary to reimburse the developer for its project financing
43 gap; and

44 (2) the developer shall have an equity participation of at least 20
45 percent of the total project cost.

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

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

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

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

9 d. In addition to the requirements set forth in subsections a. and
10 c. of this section, for a residential project consisting of newly-
11 constructed residential units to qualify for an incentive award, the
12 developer shall reserve at least 20 percent, but not more than 50
13 percent, of the residential units constructed for occupancy by low-
14 and moderate-income households with affordability controls as
15 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
16 301 et al.), unless: the municipality in which the property is located
17 has received substantive certification from the council and such a
18 reservation is not required under the approved affordable housing
19 plan; the municipality has been given a judgment of repose or a
20 judgment of compliance by the court, and such a reservation is not
21 required under the approved affordable housing plan. The extent to
22 which the proposed project would attract or retain a skilled
23 employment base that is important to the State's competitive position
24 generally or to capture economic development opportunities within
25 targeted industries, this 20 percent for low-income housing and
26 moderate-income housing may be used for workforce housing, or
27 housing for individuals with special needs to the extent consistent
28 with the Fair Housing Act, P.L.1985, c. 222 (C.52:27D-301 et al.).
29 This 20 percent shall be constructed within the same housing
30 development.

31 e. Prior to the board considering an application submitted by a
32 developer, the Department of Labor and Workforce Development,
33 the Department of Environmental Protection, and the Department of
34 the Treasury shall each report to the chief executive officer of the
35 authority whether the developer is in substantial good standing with
36 the respective department, or has entered into an agreement with the
37 respective department that includes a practical corrective action plan
38 for the developer. The authority may also contract with an
39 independent third party to perform a background check on the
40 developer.

41

42 58. (New section) a. Prior to March 1, 2027, a developer that
43 meets the eligibility criteria in section 57 of P.L. , c. (C.)
44 (pending before the Legislature as this bill) and is seeking an
45 incentive award for a redevelopment project shall submit an
46 application to the authority and, in the case of a residential project,
47 shall submit an application to the authority and the agency, in a form
48 and manner prescribed in regulations adopted by the authority, in

- 1 consultation with the agency, pursuant to the provisions of the
2 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
3 seq.). The authority shall accept applications for incentive awards
4 during the grant periods established pursuant to section 59 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill).
- 6 b. The authority shall not consider an application for a
7 commercial project unless the developer submits a letter evidencing
8 support for the commercial project from the governing body of the
9 municipality in which the commercial project is located with the
10 application.
- 11 c. The authority shall review the project cost, evaluate and
12 validate the project financing gap estimated by the developer, and
13 conduct a State fiscal impact analysis to ensure that the overall public
14 assistance provided to the project will result in a net positive benefit
15 to the State, provided that the net benefit analysis shall not apply to
16 capital investment for a food delivery source, or a health care or
17 health services center with a minimum of 10,000 square feet of space
18 devoted to residential projects, health care or health services that is
19 located in a municipality with a Municipal Revitalization Index
20 distress score of at least 50 lacking adequate access, as determined
21 by the Commissioner of Health, to health care or health services. In
22 determining whether a project will result in a net positive benefit to
23 the State, the authority shall not consider the value of any taxes
24 exempted, abated, rebated, or retained under the "Five-Year
25 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
26 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
27 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
28 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
29 effect of lowering or eliminating the developer’s State or local tax
30 liability. The determination made pursuant to this subsection shall
31 be based on the potential tax liability of the developer without regard
32 for potential tax losses if the developer were to locate in another state.
33 The authority shall assess the cost of these reviews to the applicant.
34 A developer shall pay to the authority the full amount of the direct
35 costs of an analysis concerning the developer’s application for a tax
36 credit that a third party retained by the authority performs, if the
37 authority deems such retention to be necessary. The authority shall
38 evaluate the net economic benefits on a present value basis under
39 which the requested tax credit allocation amount is discounted to
40 present value at the same discount rate as the projected benefits from
41 the implementation of the proposed redevelopment project for which
42 an award of tax credits is being sought.
- 43 d. For a redevelopment project subject to the requirement of
44 subsection c. of this section to be eligible for any tax credits under
45 the program, a developer shall demonstrate to the authority that the
46 award of tax credits will yield a net positive benefit to the State
47 equaling an amount determined by the authority through regulation
48 that exceeds the requested tax credit amount. The developer shall

1 certify, under the penalty of perjury, that all documents submitted,
2 and factual assertions made, to the authority to demonstrate that the
3 award of tax credits will yield a net positive benefit to the State in
4 accordance with this subsection are true and accurate at the time of
5 submission. A redevelopment project located in a government-
6 restricted municipality shall yield a net positive benefit to the State
7 that exceeds the requested tax credit amount, but the net benefit
8 requirement set by the authority for such redevelopment projects may
9 be up to 35 percentage points lower than the net benefit requirement
10 set by the authority for all other eligible redevelopment projects.

11 e. If at any time during the eligibility period the authority
12 determines that the developer made a material misrepresentation on
13 the developer's application, the developer shall forfeit the incentive
14 award.

15 f. If circumstances require a developer to amend its application
16 to the authority, then the developer, or an authorized agent of the
17 developer, shall certify to the authority that the information provided
18 in its amended application is true under the penalty of perjury.

19

20 59. (New section) a. Prior to March 1, 2027, for redevelopment
21 projects eligible pursuant to section 57 of P.L. , c. (C.)
22 (pending before the Legislature as this bill), the authority shall award
23 incentive awards through an application process consisting of up to
24 two biannual award rounds. The authority shall provide notice to the
25 public of the opening and closing dates for submission of grant
26 applications on its Internet website. The authority shall award
27 incentive awards based on the order in which complete, qualifying
28 applications were received by the authority.

29 b. Prior to allocating an incentive award to a redevelopment
30 project, the Department of Labor and Workforce Development, the
31 Department of Environmental Protection, and the Department of the
32 Treasury shall each report to the chief executive officer of the
33 authority whether the developer and each contractor and
34 subcontractor performing work at the redevelopment project is in
35 substantial good standing with the respective department, or has
36 entered into an agreement with the respective department that
37 includes a practical corrective action plan. The authority may also
38 contract with an independent third party to perform a background
39 check on the developer. Provided that the developer and all
40 contractors and subcontractors are in substantial good standing, or
41 have entered into such agreements, the authority shall allocate
42 incentive awards to redevelopment projects according to the
43 redevelopment project's score and until either the available incentive
44 awards are exhausted or all redevelopment projects obtaining the
45 minimum score receive an incentive award, whichever occurs first.
46 If insufficient funding exists to fully fund all eligible projects, a
47 project may be offered partial funding.

1 60. (New section) a. Following approval and selection of an
2 application pursuant to sections 58 and 59 of P.L. , c. (C. and
3 C.) (pending before the Legislature as this bill), the authority
4 shall enter into an incentive award agreement with the developer.
5 The chief executive officer of the authority shall negotiate the terms
6 and conditions of the incentive award agreement on behalf of the
7 State. The incentive award agreement shall require that the developer
8 consent to the disclosure of tax expenditure information as described
9 in paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
10 (C.52:27B-20a).

11 b. An incentive award agreement shall specify the amount of the
12 incentive award the authority shall award to the developer and the
13 duration of the eligibility period, which shall not exceed 15 years for
14 a commercial or mixed-use project and shall not exceed 10 years for
15 a residential project. The incentive award agreement shall provide
16 an estimated date of completion and include a requirement for
17 periodic progress reports, including the submittal of executed
18 financing commitments and documents that evidence site control. If
19 the authority does not receive periodic progress reports, or if the
20 progress reports demonstrate unsatisfactory progress, then the
21 authority may rescind the incentive award. If the authority rescinds
22 an incentive award in the same calendar year in which the authority
23 approved the incentive award, then the authority may assign the
24 incentive award to another applicant. The incentive award agreement
25 may also provide for a verification of the financing gap at the time
26 the developer provides executed financing commitments to the
27 authority and a verification of the developer's projected cash flow at
28 the time of certification that the project is completed.

29 c. To ensure the protection of taxpayer money, if the authority
30 determines that the project financing gap is smaller than determined
31 at board approval, the authority shall reduce the amount of the tax
32 credit on a pro rata basis. If there is no project financing gap, then
33 the developer shall forfeit the incentive award. This test shall be
34 conducted at the end of the third year of the eligibility period
35 whereupon the authority shall evaluate the developer's cash flow and
36 compare that cash flow to the projected cash flow at the time of board
37 approval. For a commercial project, if the actual cash flow exceeds
38 the projected cash flow at the time of board approval by more than
39 15 percent, the authority shall require the developer to pay up to 15
40 percent of the amount of the excess. To the extent applicable, in the
41 case of a residential project, the developer's return on investment
42 shall be subject to the provisions of section 7 of P.L.1983, c.530
43 (C.55:14K-7).

44 d. The incentive award agreement shall include a requirement
45 that the chief executive officer of the authority receive annual reports
46 from the Department of Environmental Protection, the Department of
47 Labor and Workforce Development, and the Department of the
48 Treasury demonstrating that the developer and each contractor and

1 subcontractor performing work at the redevelopment project is in
2 substantial good standing with the respective department, or has
3 entered into an agreement with the respective department that
4 includes a practical corrective action. The incentive award
5 agreement shall also include a provision that the developer shall
6 forfeit the incentive award in any year in which any such report is not
7 received. The incentive award agreement shall also require a
8 developer to engage in on-site consultations with the Division of
9 Workplace Safety and Health in the Department of Health.

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

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

32 (3) As used in this subsection:

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

36 "Labor harmony agreement" means an agreement between a
37 business that serves as the owner or operator of a retail establishment
38 or distribution center and one or more labor organizations, which
39 requires, for the duration of the agreement: that any participating
40 labor organization and its members agree to refrain from picketing,
41 work stoppages, boycotts, or other economic interference against the
42 business; and that the business agrees to maintain a neutral posture
43 with respect to efforts of any participating labor organization to
44 represent employees at an establishment or other unit in the retail
45 establishment or distribution center, agrees to permit the labor
46 organization to have access to the employees, and agrees to guarantee
47 to the labor organization the right to obtain recognition as the
48 exclusive collective bargaining representatives of the employees in

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

12 f. (1) In addition to the incentive award agreement, a developer
13 shall enter into a community benefits agreement with the authority
14 and the county or municipality in which the redevelopment project is
15 located. The agreement may include, but shall not be limited to,
16 requirements for training, employment, and youth development and
17 free services to underserved communities in and around the
18 community in which the redevelopment project is located. Prior to
19 entering a community benefits agreement, the governing body of the
20 county or municipality in which the redevelopment project is located
21 shall hold at least one public hearing at which the governing body
22 shall hear 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 of diverse
31 community groups and residents of the county or municipality in
32 which the redevelopment project is located.

33 (3) At the time the developer submits the annual report required
34 pursuant to section 62 of P.L. , c. (C.) (pending before the
35 Legislature as this bill) to the authority, the developer shall certify,
36 under the penalty of perjury, that it is in compliance with the terms
37 of the community benefits agreement. If the developer fails to
38 provide the certification required pursuant to this paragraph or the
39 authority determines that the developer 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 an
43 award or recapture all or part of any tax credits awarded.

44 g. A developer shall submit, prior to the first disbursement of tax
45 credits under the incentive award agreement, but no later than six
46 months following project completion, satisfactory evidence of actual
47 project costs, as certified by a certified public accountant, evidence
48 of a temporary certificate of occupancy, or other event evidencing

1 project completion that begins the eligibility period indicated in the
2 incentive award agreement. The developer, or an authorized agent of
3 the developer, shall certify that the information provided pursuant to
4 this subsection is true under the penalty of perjury. Claims, records,
5 or statements submitted by a developer to the authority in order to
6 receive tax credits shall not be considered claims, records, or
7 statements made in connection with State tax laws.

8 h. The incentive award agreement shall include a provision
9 allowing the authority to extend, in individual cases, the deadline for
10 any annual reporting or certification requirement.

11
12 61. (New section) a. Up to the limits established in subsection b.
13 of this section and in accordance with an incentive award 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 award agreement, a
17 developer shall be allowed a total tax credit that shall not exceed 45
18 percent of the total project cost of the redevelopment project, except
19 for a commercial project that is located in a government-restricted
20 municipality, in which case the total tax credit allowed shall not
21 exceed 50 percent of the total project cost of the commercial project.

22 b. The value of all tax credits approved by the authority under
23 the program for a redevelopment project shall not exceed
24 \$50,000,000 per redevelopment project if located in a qualified
25 incentive tract, government-restricted municipality, or municipality
26 with a Municipal Revitalization Index distress score of at least 50, or
27 \$32,000,000 for any other redevelopment project.

28
29 62. (New section) a. A developer approved for an incentive
30 award pursuant to sections 58 and 59 of P.L. , c. (C. and
31 C.) (pending before the Legislature as this bill) and that enters
32 an incentive award agreement pursuant to section 60 of P.L. , c.
33 (C.) (pending before the Legislature as this bill) shall submit
34 annually, commencing in the year in which the incentive award is
35 issued and for the remainder of the eligibility period, a report
36 indicating whether the developer is aware of any condition, event, or
37 act that would cause the developer not to be in compliance with the
38 incentive award agreement or the provisions of sections 54 through
39 67 of P.L. , c. (C.) (pending before the Legislature as this
40 bill) and any additional reporting requirements contained in the
41 incentive award agreement or tax credit certificate. The developer,
42 or an authorized agent of the developer, shall certify that the
43 information provided pursuant to this subsection is true under the
44 penalty of perjury.

45 b. (1) Upon receipt and review of each report submitted during
46 the eligibility period, the authority shall provide to the developer and
47 the director a certificate of compliance indicating the amount of tax

1 credits that the developer may apply against the developer's tax
2 liability.

3 (2) Upon receipt by the director of the certificate of compliance,
4 the director shall allow the developer a credit against the tax imposed
5 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer
6 shall apply the credit awarded against the developer's liability under
7 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
8 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
9 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
10 period during which the director allows the developer a tax credit
11 pursuant to this subsection. A developer shall not carry forward an
12 unused credit unless the developer was unable to use the credit
13 because the developer's redevelopment project was directly impacted
14 due to a natural disaster, state emergency, national emergency, or a
15 situation that was out of the developer's control that impacted the
16 developer's use of the credit that year, in which case the developer is
17 permitted to carry forward an unused credit for up two years upon
18 submitting evidence of the developer's redevelopment project being
19 directly impacted by such a circumstance and receiving approval
20 from the authority. Credits granted to a partnership shall be passed
21 through to the partners, members, or owners, respectively, pro-rata,
22 or pursuant to an executed agreement among the partners, members,
23 or owners documenting an alternate distribution method provided to
24 the director accompanied by any additional information as the
25 director may prescribe.

26 (3) The director shall prescribe the order of priority of the
27 application of the credit allowed under this section and any other
28 credits allowed by law against the tax imposed under section 5 of
29 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
30 under this section against the tax imposed pursuant to section 5 of
31 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
32 any other credits allowed by law, shall not reduce the tax liability to
33 an amount less than the statutory minimum provided in subsection
34 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

35 c. The authority may, pursuant to an amendment to the incentive
36 award agreement, provide short-term stabilization loans to a
37 developer eligible for an incentive award pursuant to subparagraph
38 (b) of paragraph (3) of subsection a. of section 57 or of P.L. , c.
39 (C.) (pending before the Legislature as this bill). The authority
40 may finance the loans authorized pursuant to this subsection through
41 a sale of tax credits to which the developer would be entitled at a
42 future date pursuant to the incentive award agreement and as
43 authorized under this act or through appropriations made available
44 by the Legislature. A developer shall utilize a loan made available
45 pursuant to this subsection exclusively for project costs or to mitigate
46 a project financing gap. The loans shall bear interest at rates and
47 terms deemed appropriate by the authority but shall bear an interest
48 rate of zero percent per year for the first five years of the loan term.

1 63. (New section) a. A developer may apply to the director and
2 the chief executive officer of the authority for a tax credit transfer
3 certificate, covering one or more years, in lieu of the developer being
4 allowed any amount of the credit against the tax liability of the
5 developer. The tax credit transfer certificate, upon receipt thereof by
6 the developer from the director and the chief executive officer of the
7 authority, may be sold or assigned, in full or in part in an amount not
8 less than \$25,000, in the privilege period during which the developer
9 receives the tax credit transfer certificate from the director, to another
10 person, who may apply the credit against a tax liability pursuant to
11 section 5 of P.L.1945, c.162 (C.54:10A-5) , sections 2 and 3 of
12 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
13 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 the amount of the credit that the developer
16 has elected to sell or assign against the developer's tax liability.

17 b. The developer shall not sell or assign, including a collateral
18 assignment, a tax credit transfer certificate allowed under this section
19 for consideration received by the developer of less than 85 percent of
20 the transferred credit amount before considering any further
21 discounting to present value which shall be permitted, except a
22 developer of a residential project consisting of newly-constructed
23 residential units may assign a tax credit transfer certificate for
24 consideration of less than 85 percent subject to the submission of a
25 plan to the authority and the agency to use the proceeds derived from
26 the assignment of tax credits to complete the residential project,
27 except a developer of a residential project consisting of newly-
28 constructed residential units that has received federal low income
29 housing tax credits under 26 U.S.C. s.42(b)(2)(B)(i) may assign a tax
30 credit transfer certificate for consideration of no less than 75 percent
31 subject to the submission of a plan to the authority and the New
32 Jersey Housing and Mortgage Finance Agency to use the proceeds
33 derived from the assignment of tax credits to complete the residential
34 project. The tax credit transfer certificate issued to a developer by
35 the director shall be subject to any limitations and conditions
36 imposed on the application of State tax credits pursuant to sections
37 54 through 67 of P.L. , c. (C.) (pending before the Legislature
38 as this bill) and any other terms and conditions that the director may
39 prescribe.

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

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

- 46 (1) the name of the transferrer;
- 47 (2) the name of the transferee;
- 48 (3) the value of the tax credit transfer certificate; and

1 (4) the consideration received by the transferrer.

2
3 64. (New section) a. A developer who has entered into an
4 incentive award agreement pursuant to section 62 of P.L. , c.
5 (C.) (pending before the Legislature as this bill) may, upon
6 notice to and written consent of the authority and State Treasurer,
7 pledge, assign, transfer, or sell any or all of its right, title, and interest
8 in and to the incentive award agreement and in the incentive awards
9 payable under the incentive award agreement, and the right to receive
10 the incentive awards, along with the rights and remedies provided to
11 the developer under the incentive award agreement. Any assignment
12 shall be an absolute assignment for all purposes, including the federal
13 bankruptcy code.

14 b. Any pledge of an incentive award made by the developer shall
15 be valid and binding from the time the pledge is made and filed in
16 the records of the authority. The incentive award pledged and
17 thereafter received by the developer shall immediately be subject to
18 the lien of the pledge without any physical delivery thereof or further
19 act, and the lien of any pledge shall be valid and binding against all
20 parties having claims of any kind in tort, contract, or otherwise
21 against the developer irrespective of whether the parties have notice
22 thereof. As a condition of any incentive grant, the grantee, assignee,
23 pledgee or subsequent holder of the incentive grant shall immediately
24 file notice of the same with the clerk of the county in which the
25 project is located.

26 c. The authority shall publish on its Internet website the
27 following information concerning each pledge, assignment, transfer,
28 or sale approved by the authority pursuant to this section:

29 (1) the name of the person or entity offering the pledge,
30 assignment, transfer, or sale of a right, title, or interest in an incentive
31 grant agreement or tax credit agreement;

32 (2) the name of the person or entity receiving the pledge,
33 assignment, transfer, or sale of a right, title, or interest in the
34 incentive grant agreement or tax credit agreement;

35 (3) the value of the right, title, or interest in the incentive grant
36 agreement or tax credit agreement; and

37 (4) the consideration received by the person or entity offering the
38 pledge, assignment, transfer, or sale of the right, title, or interest in
39 the incentive grant agreement or tax credit agreement.

40

41 65. (New section) a. As used in this section, "transformative
42 project" means a redevelopment project that has a project financing
43 gap, that has a total project cost of at least \$100,000,000, and that
44 includes 500,000 or more square feet of new or substantially
45 renovated industrial, commercial, or residential space or that includes
46 250,000 or more square feet of film studios, professional stages,
47 television studios, recording studios, screening rooms, or other
48 infrastructure for film production and which is of special economic

1 importance as measured by the level of new jobs, new capital
2 investment, opportunities to leverage leadership in a high-priority
3 targeted industry, or other state priorities as determined by the
4 authority pursuant to rules and regulations promulgated to implement
5 this section. The criteria developed by the authority shall include,
6 but shall not be limited to:

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

10 (2) for a residential or mixed-use project, the construction of
11 1,000 or more new residential units, 20 percent of which shall be
12 constructed for occupancy by low- and moderate-income households
13 with affordability controls as required under the under the "Fair
14 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), which 20
15 percent shall include, to the extent to which the proposed
16 transformative project would attract or retain a skilled employment
17 base that is important to the State's competitive position generally or
18 to capture economic development opportunities within targeted
19 industries, low-income housing, moderate-income housing,
20 workforce housing, or housing for individuals with special needs, and
21 which 20 percent shall be constructed within the same housing
22 development;

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

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

31 b. The authority may award an incentive award to no more than
32 seven transformative projects in accordance with the provisions of
33 sections 59 through 67 of P.L. , c. (C.); provided, however,
34 a transformative project shall not be subject to the competitive
35 application procedure set forth in section 59 of P.L. , c. (C.)
36 (pending before the Legislature as this bill). A transformative project
37 receiving an incentive award pursuant to this section, other than a
38 project that includes 250,000 or more square feet of film studios,
39 professional stages, television studios, recording studios, screening
40 rooms or other infrastructure for film production, shall be located in
41 a distressed municipality, a government-restricted municipality, or
42 an urban transit hub municipality. No more than two transformative
43 project receiving an incentive award pursuant to this section shall be
44 located in the same municipality. The authority shall not consider an
45 application for a transformative project unless the applicant submits
46 with its application a letter evidencing support for the transformative
47 project from the governing body of the municipality in which the
48 transformative project is located.

1 c. The authority shall review the transformative project cost,
2 evaluate and validate the project financing gap estimated by the
3 developer, and conduct a State fiscal impact analysis to ensure that
4 the overall public assistance provided to the transformative project
5 will result in a net positive benefit to the State. In determining
6 whether a transformative project will result in a net positive benefit
7 to the State, the authority shall not consider the value of any taxes
8 exempted, abated, rebated, or retained under the "Five-Year
9 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
10 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
11 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
12 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
13 effect of lowering or eliminating the developer's State or local tax
14 liability. The determination made pursuant to this subsection shall
15 be based on the potential tax liability of the developer without regard
16 for potential tax losses if the developer were to locate in another state.
17 The authority shall assess the cost of these reviews to the applicant.
18 A developer shall pay to the authority the full amount of the direct
19 costs of an analysis concerning the developer's application for an
20 incentive award that a third party retained by the authority performs,
21 if the authority deems such retention to be necessary. The authority
22 shall evaluate the net economic benefits on a present value basis
23 under which the requested tax credit allocation amount is discounted
24 to present value at the same discount rate as the projected benefits
25 from the implementation of the proposed transformative project for
26 which an award of tax credits is being sought. Projects that are
27 predominantly residential shall be excluded from the calculation of
28 the net benefit test required pursuant to this subsection.

29 d. In determining net benefits for any business or person
30 considering locating in a transformative project and applying to
31 receive from the authority any other economic development incentive
32 subsequent to the award of transformative project tax credits pursuant
33 to section 65 of P.L. , c. (C.) (pending before the Legislature
34 as this bill), the authority shall not credit the business or person with
35 any benefit that was previously credited to the transformative project
36 pursuant to section 65 of P.L. , c. (C.) (pending before the
37 Legislature as this bill).

38 e. The authority shall administer the credits awarded pursuant to
39 this section in accordance with the provisions of sections 62 and 63
40 of P.L. , c. (C. and C.) (pending before the Legislature
41 as this bill).

42 f. Prior to allocating an incentive award to a developer, the
43 Department of Labor and Workforce Development, the Department
44 of Environmental Protection, and the Department of the Treasury
45 shall each report to the chief executive officer of the authority
46 whether the developer and each contractor and subcontractor
47 performing work at the transformative project is in substantial good
48 standing with the respective department, or has entered into an

1 agreement with the respective department that includes a practical
2 corrective action plan. The authority may also contract with an
3 independent third party to perform a background check on the
4 applicant.

5 g. Notwithstanding the limitation on incentive awards set forth
6 in subsection b. of section 61 and section 98 of P.L. , c. (C.)
7 (pending before the Legislature as this bill) to the contrary, the
8 authority may allow a developer of a transformative project a tax
9 credit, as reimbursement for certain project financing gap costs, in an
10 amount not to exceed 30 percent of the total project cost, the total
11 value of the project financing gap, or \$250,000,000 whichever is less.
12

13 66. (New section) Beginning the year next following the year in
14 which P.L. , c. (C.) (pending before the Legislature as this
15 bill) takes effect and every two years thereafter, a State college or
16 university established pursuant to chapter 64 of Title 18A of the New
17 Jersey Statutes shall, pursuant to an agreement executed between the
18 State college or university and the authority, prepare a report on the
19 implementation of the program, and submit the report to the
20 authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164
21 (C.52:14-19.1), to the Legislature. Each biennial report required
22 under this section shall include a description of each redevelopment
23 project receiving a tax credit under the program, a detailed analysis
24 of the consideration given in each project to the factors set forth in
25 sections 58 and 59 of P.L. , c. (C. , C. , and C.)
26 (pending before the Legislature as this bill), in the case of a
27 commercial project, the return on investment for incentive awards
28 provided and the commercial project's impact on the State's
29 economy, and any other metrics the State college or university
30 determines are relevant based upon national best practices. The
31 authority shall prepare a written response to the report, which the
32 authority shall submit to the Governor and, pursuant to section 2 of
33 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.
34

35 67. (New section) Notwithstanding the provisions of the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.), to the contrary, the chief executive officer of the authority may
38 adopt, immediately, upon filing with the Office of Administrative
39 Law, regulations that the chief executive officer deems necessary to
40 implement the provisions of sections 54 through 67 of P.L. , c.
41 (C.) (pending before the Legislature as this bill), which
42 regulations shall be effective for a period not to exceed 180 days from
43 the date of the filing. The chief executive officer shall thereafter
44 amend, adopt, or readopt the regulations in accordance with the
45 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

1 68. (New section) Sections 68 through 81 of P.L. , c. (C.)
2 (pending before the Legislature as this bill) shall be known and may
3 be cited as the "Emerge Program Act."

4
5 69. (New section) As used in sections 68 through 81 of P.L. , c.
6 (C.) (pending before the Legislature as this bill):

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

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

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

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

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

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

12 "Capital investment" means expenses that a business or an affiliate
13 of the business incurs following its submission of an application to
14 the authority pursuant to section 72 of P.L. , c. (C.) (pending
15 before the Legislature as this bill), but prior to the project completion
16 date, as shall be defined in the project agreement, for: a. site
17 preparation and construction, repair, renovation, improvement,
18 equipping, or furnishing on real property or of a building, structure,
19 facility, or 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 U.S.C.
23 ss.168 and 179), for the operation of a business on real property or in
24 a building, structure, facility, or improvement to real property; or any
25 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 State
28 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. , c. (C.) (pending before the
32 Legislature as this bill), rounded up, for each applicable phase
33 agreement.

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

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

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

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

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

20 "Eligible business" means any business that satisfies the criteria
21 set forth in section 71 of P.L. , c. (C.) (pending before the
22 Legislature as this bill) at the time of application for tax credits under
23 the program.

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

28 "Employment and Investment Corridor" means the portions of the
29 qualified incentive area that are not located within a distressed
30 municipality and which:

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

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

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

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

1 "Full-time employee" means a person:

2 a. who is employed by a business for consideration for at least
3 35 hours a week, or who renders any other standard of service
4 generally accepted by custom or practice as full-time employment,
5 and whose wages are subject to withholding as provided in the "New
6 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

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

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

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

30 With respect to a logistics, manufacturing, energy, defense,
31 aviation, or maritime business, excluding primarily warehouse or
32 distribution operations, located in a port district having a container
33 terminal, the requirement that employee health benefits are to be
34 provided shall be deemed to be satisfied if the benefits are provided
35 in accordance with industry practice by a third party obligated to
36 provide such benefits pursuant to a collective bargaining agreement;

37 A "full-time employee" shall include, but shall not be limited to,
38 an employee that has been hired by way of a labor union hiring hall
39 or its equivalent. 35 hours of employment per week qualified
40 business facility shall constitute one "full-time employee," regardless
41 of whether or not the hours of work were performed by one or more
42 persons.

43 "Full-time employee" shall not include any person who works as
44 an independent contractor or on a consulting basis for the business or
45 a contract worker whose income is subject to withholding as provided
46 in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
47 except that any person working as an independent contractor or
48 contract worker whose income is subject to withholding as provided

1 in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
 2 for the business shall be deemed a full-time employee if the business
 3 demonstrates to the authority that: (a) the person working as an
 4 independent contractor for the business works at least 35 hours per
 5 week or renders any other standard service generally accepted by
 6 custom or practice as full- time employment, and the person is
 7 provided with employee health benefits under a health benefits plan
 8 authorized pursuant to State or federal law; and (b) the business
 9 provides documentation to the authority to permit the authority to
 10 verify the compensation paid to, and the time worked by, the person
 11 working as an independent contractor. The business shall provide to
 12 the authority an annual report that identifies the number of persons
 13 working as independent contractors for the business and their
 14 contractual or partnering relationship with the business as provided
 15 pursuant to subsection i. of section 3 of P.L.2011, c.149 (C.34:1B-
 16 244).

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

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

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

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

45 "Incentive area" means:

- 46 a. an aviation district;
- 47 b. a port district;
- 48 c. a distressed municipality or transit hub municipality;

- 1 d. an area designated pursuant to the "State Planning Act,"
2 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
3 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe
4 Planning Area); or a Designated Center under the State Development
5 and Redevelopment Plan, provided an area designated as Planning
6 Area 2 (Suburban) or Planning Area 3 (Fringe Planning Area) or a
7 Designated Center shall be located within a one-half mile radius of
8 the mid-point, with bicycle and pedestrian connectivity, of a New
9 Jersey Transit Corporation, Port Authority Transit Corporation, or
10 Port Authority Trans-Hudson Corporation rail, bus, or ferry station,
11 including all light rail stations, or a high frequency bus stop as
12 certified by the New Jersey Transit Corporation.
- 13 e. an area located within a smart growth area and planning area
14 designated in a master plan adopted by the New Jersey Meadowlands
15 Commission pursuant to subsection (i) of section 6 of P.L.1968,
16 c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the
17 New Jersey Meadowlands Commission pursuant to section 20 of
18 P.L.1968, c.404 (C.13:17-21);
- 19 f. an area located within any land owned by the New Jersey
20 Sports and Exposition Authority, established pursuant to P.L.1971,
21 c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack
22 Meadowlands District as delineated in section 4 of P.L.1968, c.404
23 (C.13:17-4);
- 24 g. an area located within a regional growth area, rural
25 development area zoned for industrial use as of the effective date of
26 P.L.2016, c.75, or town, village, or a military and federal installation
27 area designated in the comprehensive management plan prepared and
28 adopted by the Pinelands Commission pursuant to the "Pinelands
29 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 30 h. an area located within a government-restricted municipality;
- 31 i. an area located within land approved for closure under any
32 federal Commission on Base Realignment and Closure action;
- 33 j. an area located within an area designated pursuant to the
34 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
35 Planning Area 4A (Rural Planning Area), Planning Area 4B
36 (Rural/Environmentally Sensitive), or Planning Area 5
37 (Environmentally Sensitive), so long as that area designated as
38 Planning Area 4A (Rural Planning Area), Planning Area 4B
39 (Rural/Environmentally Sensitive), or Planning Area 5
40 (Environmentally Sensitive) is located within: (1) a designated center
41 under the State Development and Redevelopment Plan; (2) a
42 designated growth center in an endorsed plan until the State Planning
43 Commission revises and readopts New Jersey's State Strategic Plan
44 and adopts regulations to revise this definition as it pertains to
45 Statewide planning areas; (3) any area determined to be in need of
46 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
47 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation
48 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any

1 area on which a structure exists or previously existed including any
2 desired expansion of the footprint of the existing or previously
3 existing structure provided the expansion otherwise complies with all
4 applicable federal, State, county, and local permits and approvals; or
5 (5) any area on which an existing tourism destination project is
6 located; or

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

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

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

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

36 "Industrial use" means assembling, processing, manufacturing, or
37 any combination thereof, of finished or partially finished products
38 from materials or fabricated parts; the breaking or demolishing of
39 finished or partially finished products; or the production of oil or gas
40 or the generation or transformation of electricity. "Industrial use"
41 includes farming purposes as that term is defined under IRC section
42 6420(c)(3)(A), undertaken in an industrial space.

43 "Infrastructure Fund" means the Recovery Infrastructure Fund
44 established pursuant to section 79 of P.L. , c. (C.) (pending
45 before the Legislature as this bill) to fund local infrastructure
46 improvements.

47 "Labor harmony agreement" means an agreement between a
48 business that serves as the owner or operator of a retail establishment

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

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

27 "Mega project" means a project of special economic importance,
28 as determined pursuant to regulations adopted by the chief executive
29 officer of the authority, as measured by the level of new jobs, new
30 capital investment, and opportunities to leverage leadership in a high-
31 priority targeted industry, as determined by the authority pursuant to
32 rules and regulations promulgated to implement P.L. , c. (C.)
33 (pending before the Legislature as this bill).

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

41 "Municipal Revitalization Index" means the index by the
42 Department of Community Affairs ranking New Jersey's
43 municipalities according to eight separate indicators that measure
44 diverse aspects of social, economic, physical, and fiscal conditions
45 in each locality.

46 "New full-time job" means an eligible position created by a
47 business at a qualified business facility that did not previously exist
48 in this State. For the purposes of determining the number of new

1 full-time jobs, the eligible positions of an affiliate shall be considered
2 eligible positions of the business.

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

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

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

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

19 "Program" means the Emerge Program established by section 70
20 of P.L. , c. (C.) (pending before the Legislature as this bill).

21 "Project" means the capital investment and the employment
22 commitment at a qualified business facility pursuant to the project
23 agreement.

24 "Project agreement" means the contract executed between an
25 eligible business and the authority pursuant to section 75 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill), which sets
27 forth the terms and conditions under which the eligible business may
28 receive the incentives authorized pursuant to the program.

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

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

35 "Qualified business facility" means any building, complex of
36 buildings, or structural components of buildings, and all machinery
37 and equipment located therein, used in connection with the operation
38 of a business that is not engaged in final point of sale retail business
39 at that location, unless the building, complex of buildings or
40 structural components of buildings, and all machinery and equipment
41 therein, are used in connection with the operation of a tourism
42 destination project located in the Atlantic City Tourism District as
43 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

44 "Qualified incentive tract" means: (i) a population census tract
45 having a poverty rate of 20 percent or more; or (ii) a census tract in
46 which the median family income for the census tract does not exceed
47 80 percent of the greater of the Statewide median family income or

1 the median family income of the metropolitan statistical area in
2 which the census tract is situated.

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

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

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

18 "Retained full-time job" means an eligible position that currently
19 exists in New Jersey and is filled by a full-time employee, but which,
20 because of a potential relocation by the business, is at risk of being
21 lost to another state or country or of being eliminated. For the
22 purposes of determining the number of retained full-time jobs, the
23 eligible positions of an affiliate shall be considered eligible positions
24 of the business.

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

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

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

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

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

43 "Tourism destination project" means a qualified non-gaming
44 business facility that will be among the most visited privately owned
45 or operated tourism or recreation sites in the State, and which is
46 located within the incentive area and has been determined by the
47 authority to be in an area appropriate for development and in need of
48 economic development incentive assistance, including a non-gaming

1 business within an established tourism district with a significant
2 impact on the economic viability of that tourism district.

3 "Transit oriented development" means a qualified business facility
4 located within a 1/2-mile radius, or one-mile radius for projects
5 located in a Government-restricted municipality, surrounding the
6 mid-point of a New Jersey Transit Corporation, Port Authority
7 Transit Corporation, or Port Authority Trans-Hudson Corporation
8 rail, bus, or ferry station platform area, including all light rail
9 stations.

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

14 "Transit hub municipality" means a Transit Village or a
15 municipality: a. which qualifies for State aid pursuant to P.L.1978,
16 c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified
17 municipality thereunder pursuant to P.L.2007, c.111; and b. in which
18 30 percent or more of the value of real property was exempt from
19 local property taxation during tax year 2006. The percentage of
20 exempt property shall be calculated by dividing the total exempt
21 value by the sum of the net valuation which is taxable and that which
22 is tax exempt.

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

27
28 70. (New section) a. The Emerge Program is hereby established
29 as a program under the jurisdiction of the New Jersey Economic
30 Development Authority. The authority shall administer the program
31 to encourage economic development, job creation, and the retention
32 of significant numbers of jobs in imminent danger of leaving the
33 State. The board may approve the award of tax credits to an eligible
34 business upon application of the chief executive officer of the eligible
35 business and following the execution of a letter of intent and the
36 payment of fees, subject to the limitations set forth in subsection b.
37 of this section:

38 b. value of all tax credits approved by the authority for
39 businesses eligible pursuant to section 71 of P.L. , c. (C.)
40 shall be subject to the limitations set forth in section 98 of P.L. , c.
41 (C.) (pending before the Legislature as this bill).

42
43 71. (New section) a. Beginning on the effective date of P.L. , c.
44 (C.) (pending before the Legislature as this bill), but prior to
45 March 1, 2027, to be eligible for tax credits under the program, a
46 business's chief executive officer, or equivalent officer, shall
47 demonstrate to the authority at the time of application that:

- 1 (1) the business will make, acquire, or lease a capital investment
- 2 at the qualified business facility equal to or greater than the
- 3 applicable amount set forth in subsection b. of this section;
- 4 (2) the business will create or retain new and retained full-time
- 5 jobs at the qualified business facility in an amount equal to or greater
- 6 than the applicable number set forth in subsection c. of this section;
- 7 (3) the qualified business facility is located in a qualified
- 8 incentive area;
- 9 (4) the award of tax credits will be a material factor in the
- 10 business's decision to create or retain the number of new and retained
- 11 full-time jobs set forth in its application;
- 12 (5) the award of tax credits, the capital investment resultant from
- 13 the award of tax credits, and the resultant creation and retention of
- 14 new and retained full-time jobs will yield a net positive benefit to the
- 15 State equaling at least 400 percent of the requested tax credit
- 16 allocation amount, or for a phased project the requested tax credit
- 17 allocation amount for the initial phase, and on a cumulative basis
- 18 each phase thereafter, which determination shall be calculated prior
- 19 to considering the value of the requested tax credit under the program
- 20 and shall be based on the benefits generated during the period of time
- 21 from approval through the end of the commitment period, or through
- 22 the end of the longer period of extended commitment that the
- 23 business may elect for purposes of receiving credit for benefits
- 24 projected to occur after the expiration of the commitment period,
- 25 except that:
- 26 (a) an award of tax credits to a business for a qualified business
- 27 facility located in a distressed municipality or transit hub
- 28 municipality shall yield a net positive benefit to the State, based on
- 29 the benefits generated during the period of time from approval
- 30 through the end of the commitment period, that equals at least 300
- 31 percent of the requested tax credit amount;
- 32 (b) an award of tax credits to a business for a qualified business
- 33 facility located in a government-restricted municipality, or for a
- 34 mega project, shall yield a net positive benefit to the State, based on
- 35 the benefits generated during the period of time from approval
- 36 through the end of the commitment period, that equals at least 200
- 37 percent of the requested tax credit amount;
- 38 (c) the net economic benefits shall be evaluated on a present value
- 39 basis with the requested tax credit allocation amount discounted to
- 40 present value at the same discount rate as the benefits from capital
- 41 investment resultant from the award of tax credits and the resultant
- 42 retention and creation of full-time jobs as provided in subparagraph
- 43 (d) of this paragraph; and
- 44 (d) the net economic benefits shall be discounted to reflect the
- 45 uncertainty of the business's location after the commitment period
- 46 expires, provided that a business may elect a period of extended
- 47 commitment for which time the economic benefits shall be creditable
- 48 to the determination of the net economic benefit of the project, and a

1 business electing a period of extended commitment and failing to
2 maintain the project through the expiration of that extended
3 commitment period shall be obligated to repay a proportion of the
4 incremental benefits received on account of having extended the
5 commitment period, taking into consideration the number of years of
6 extended commitment during which the business maintained the
7 project;

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

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

24 (7) the project shall comply with the authority's affirmative
25 action requirements, adopted pursuant to section 4 of P.L.1979, c.203
26 (C.34:1B-5.4); and

27 (8) (a) each worker employed to perform construction work or
28 building services work at the qualified business facility shall be paid
29 not less than the prevailing wage rate for the worker's craft or trade,
30 as determined by the Commissioner of Labor and Workforce
31 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
32 P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

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

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

37 (iii) the qualified business facility constitutes a lease of less than
38 35 percent of the qualified business facility at the time of contract
39 and under any agreement to subsequently lease the qualified business
40 facility.

41 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
42 5.1), nothing in this paragraph shall be construed as requiring the
43 payment of prevailing wage for construction commencing more than
44 two years after a business has executed with the authority a
45 commitment letter regarding authority financial assistance and the
46 first payment or other provision of the assistance is received.

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

- 1 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
2 existing industrial, warehousing, logistics, or research and
3 development portion of the premises for continued similar use by the
4 business, a minimum investment of \$20 per square foot of gross
5 leasable area;
- 6 (b) for the new construction of an industrial, warehousing,
7 logistics, or research and development portion of the premises for use
8 by the business, a minimum investment of \$60 per square foot of
9 gross leasable area;
- 10 (c) for the rehabilitation, improvement, fit-out, or retrofit of
11 existing portion of the premises that does not qualify pursuant to
12 subparagraph (a) or (b) of this paragraph, a minimum investment of
13 \$40 per square foot of gross leasable area;
- 14 (d) for the new construction of a portion of the premises that does
15 not qualify pursuant to subparagraph (a) or (b) of this paragraph, a
16 minimum investment of \$120 per square foot of gross leasable area;
17 and
- 18 (e) for a small business, no new minimum capital investment
19 shall be required, provided the applicant has demonstrated evidence
20 satisfactory to the authority of its intent to remain in the State for the
21 commitment period.
- 22 (2) In the event the business invests less than that amount set forth
23 in paragraph (1) of this subsection in the qualified business facility,
24 the business shall donate the uninvested balance to the infrastructure
25 fund established pursuant to section 79 of P.L. , c. (C.)
26 (pending before the Legislature as this bill). (3)
- 27 Notwithstanding the provisions of paragraphs (1) and (2) of this
28 subsection, the authority may adopt, pursuant to the provisions of the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.), rules and regulations adjusting the minimum capital investment
31 amounts required under the program when necessary to respond to
32 the prevailing economic conditions in the State.
- 33 c. (1) The minimum number of new or retained full-time jobs
34 required to be eligible under the program shall be as follows:
- 35 (a) for a small business, 25 percent growth of its workforce with
36 new full-time jobs within the eligibility period in accordance with
37 subsection e. of section 76 of P.L. , c. (C.) (pending before
38 the Legislature as this bill);
- 39 (b) for a business engaged primarily in a targeted industry which
40 does not qualify as a small business, 25 new full-time jobs;
- 41 (c) for any other business, a minimum of 35 new full-time jobs;
- 42 (d) for a business located in qualified incentive tract or
43 government-restricted municipality that will retain 500 or more
44 retained full-time jobs, a minimum of the business's retained full-
45 time jobs at the time of application and new construction or
46 rehabilitation, improvement, fit-out, or retrofit of an existing portion
47 of the premises equal in size to the space occupied by the business's
48 retained full-time jobs at the time of application;

1 (e) for a business located in the State that will retain 1,000 or more
2 retained full-time jobs, a minimum of the business's retained full-
3 time jobs at the time of application and new construction or
4 rehabilitation, improvement, fit-out, or retrofit of an existing portion
5 of the premises equal in size to the space occupied by the business's
6 retained full-time jobs at the time of application.

7 (2) Notwithstanding the provisions of paragraph (1) of this
8 subsection, the authority may adopt, pursuant to the provisions of the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), rules and regulations adjusting the minimum number of new or
11 retained full-time jobs required under the program when necessary to
12 respond to the prevailing economic conditions in the State.

13 d. A business shall provide and adhere to a plan that
14 demonstrates that the qualified business facility is capable of
15 accommodating more than half of the business's new or retained full-
16 time employees as approved and shall certify, under the penalty of
17 perjury, that not less than 80 percent or more of the new or retained
18 full-time jobs are held by employees whose earnings are subject to
19 withholding under the "New Jersey Gross Income Tax Act,"
20 N.J.S.54A:1-1 et seq. On the effective date of P.L. , c. (C.)
21 (pending before the Legislature as this bill) this requirement shall
22 apply to projects approved under P.L.2011, c.149 (C.34:1B-242 et
23 seq.), P.L.2007, c.346 (C.34:1B-207 et seq.), and P.L.1996, c.26
24 (C.34:1B-124 et al.). The requirements set forth in this subsection
25 may be modified by the authority to respond to an emergency,
26 disaster, or other factors that result in employees of an eligible
27 business having to work from a location other than the qualified
28 business facility.

29 e. The owner of the business, or an authorized agent of the
30 owner, shall certify that all factual representations made by the
31 business to the authority pursuant to subsection a. of this section are
32 true under the penalty of perjury.

33 f. A business eligible pursuant to this section may submit an
34 application to the authority in accordance with the provisions of
35 section 72 of P.L. , c. (C.) (pending before the Legislature
36 as this bill) on or after the effective date of P.L. , c. (C. or)
37 (pending before the Legislature as this bill) but prior to March 1,
38 2027.

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

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

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

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

4 c. An eligible business shall pay to the authority the full amount
5 of the direct costs of an analysis concerning the eligible business's
6 application for a tax credit, which a third party retained by the
7 authority performs, if the authority deems such retention to be
8 necessary. The authority shall have the discretion to waive all or a
9 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 of the eligible business,
18 or an authorized agent of the owner, shall certify to the authority that
19 the information provided in its amended application is true under the
20 penalty of perjury.

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

24

25 73. (New section) a. Following approval by the board, but before
26 the issuance of tax credits, the authority shall require an eligible
27 business to enter into a project agreement. The terms of the project
28 agreement shall be consistent with the eligibility requirements of
29 section 71 of P.L. , c. (C.) (pending before the Legislature
30 as this bill), as applicable, and shall include, but shall not be limited
31 to, the following:

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

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

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

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

46 (4) a requirement that the eligible business maintain the project
47 at a location in New Jersey for the commitment period, with at least
48 the minimum number of full-time jobs as required by this program,

1 and a provision to permit the authority to recapture all or part of any
2 tax credits awarded, at its discretion, if the eligible business does not
3 remain in compliance with this provision for the required term or
4 significantly reduces the number of full-time employees, or the
5 salaries thereof, to which the eligible business certified at the
6 commencement of the eligibility period;

7 (5) a method for the eligible business to certify that it has met the
8 capital investment and employment requirements of the program set
9 forth in subsections b. and c. of section 71 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) and to report annually to
11 the authority the number of new and retained full-time employees,
12 and the salaries thereof, for which the tax credits are to be allowed;

13 (6) representations that the eligible business is in substantial good
14 standing or meets the agreement requirements described in paragraph
15 (1) of subsection b. of section 71 of P.L. , c. (C.) (pending
16 before the Legislature as this bill), the project complies with all
17 applicable laws, and specifically, that the project does not violate any
18 environmental law;

19 (7) a provision permitting an audit of the payroll records of the
20 business from time to time, as the authority deems necessary;

21 (8) a provision that the chief executive officer of the authority
22 receives annual reports from the Department of Environmental
23 Protection, the Department of Labor and Workforce Development,
24 and the Department of the Treasury demonstrating that the eligible
25 business and each contractor and subcontractor performing work at
26 the qualified business facility is in compliance with the respective
27 department, or has entered into an agreement with the respective
28 department that includes a practical corrective action plan, and a
29 provision providing that if the eligible business is not in compliance
30 with its legal obligations of rules administered by these departments
31 and has been given formal notice thereof, then the authority may
32 suspend the issuance of tax credits pending resolution of the dispute;

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

36 (10) a provision permitting the authority to amend the agreement;
37 and

38 (11) a provision establishing the conditions under which the
39 authority, the eligible business, or both, may terminate the
40 agreement.

41 b. (1) In addition to the project agreement, an eligible
42 business shall enter into a community benefits agreement with the
43 authority and the county or municipality in which the qualified
44 business facility is located. The agreement may include, but shall not
45 be limited to, requirements for training, employment, and youth
46 development and free services to underserved communities in and
47 around the community in which the qualified business facility is
48 located. Prior to entering a community benefits agreement, the

1 governing body of the county or municipality in which the qualified
2 business facility is located shall hold at least one public hearing at
3 which the governing body shall hear testimony from residents,
4 community groups, and other stakeholders on the needs of the
5 community that the agreement should address.

6 (2) The community benefits agreement shall provide for the
7 creation of a community advisory committee to oversee the
8 implementation of the agreement, monitor successes, ensure
9 compliance with the terms of the agreement, and produce an annual
10 public report. The community advisory committee created pursuant
11 to this paragraph shall be comprised of representatives from
12 community groups and residents of the county or municipality in
13 which the qualified business facility is located.

14 (3) At the time the eligible business submits the annual report
15 required pursuant to section 77 of P.L. , c. (C.) (pending
16 before the Legislature as this bill) to the authority, the eligible
17 business shall certify, under the penalty of perjury, that it is in
18 compliance with the terms of the community benefits agreement. If
19 the eligible business fails to provide the certification required
20 pursuant to this paragraph or the authority determines that the eligible
21 business is not in compliance with the terms of the community
22 benefits agreement based on the reports submitted by the community
23 advisory committee pursuant to paragraph (2) of this subsection, then
24 the authority may rescind the award or recapture all or part of any tax
25 credits awarded.

26
27 74. (New section) a. Commencing with the date six months
28 following the date the authority and an eligible business execute a
29 project agreement, the eligible business shall demonstrate that it has
30 obtained site plan approval and has committed financing for, and site
31 control of, the qualified business facility. If the eligible business
32 obtained site control of the qualified business facility prior to the
33 execution of the letter of intent pursuant to section 72 of P.L. , c.
34 (C.) (pending before the Legislature as this bill), then the
35 authority may rescind approval of the award of tax credits, unless the
36 eligible business disclosed the fact that the eligible business had
37 obtained the site prior to executing the letter of intent and the
38 authority determines that the award of tax credits was still a material
39 factor in the eligible business's decision to create or retain the
40 minimum number of new and retained full-time jobs for eligibility
41 under the program. The eligible business shall provide an estimated
42 date of completion and shall submit periodic progress reports. The
43 authority may rescind an award of tax credits if an eligible business
44 fails to provide the information required under this section within the
45 period indicated in the approval of the tax credits by the board. The
46 authority may rescind an award of tax credits under the program if a
47 project fails to advance in accordance with the project agreement.

1 b. Upon completion of the capital investment and employment
2 requirements of the program, an eligible business shall submit to the
3 authority certifications evidencing that the eligible business has
4 satisfied the conditions relating to the capital investment and
5 employment requirements of the project agreement with supporting
6 evidence satisfactory to the authority. Absent extenuating
7 circumstances and the written approval of the authority, the eligible
8 business shall submit the certification within three years following
9 the date of approval of the application. The authority may grant two
10 six-month extensions of the deadline; provided that the date of
11 completion shall not occur later than four years following the date of
12 approval of the application by the authority; provided further that the
13 authority may grant one additional extension not to exceed one year
14 upon a finding by the authority that: (1) the project is delayed due to
15 unforeseeable acts related to the project beyond the eligible
16 business's control and without its fault or negligence; (2) the eligible
17 business is using best efforts, with all due diligence, to proceed with
18 the completion of the project and the submission of the certification;
19 and (3) the eligible business has made, and continues to make, all
20 reasonable efforts to prevent, avoid, mitigate, and overcome the
21 delay. To qualify for the one-year extension, the eligible business
22 shall provide timely notice to the authority of the delay within 30
23 days after the eligible business has actual or constructive knowledge
24 of the delay, and shall provide periodic reports, not less than every
25 30 days, of the status of the delay and the steps the eligible business
26 is taking to mitigate or overcome the delay.

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

40 d. The owner of the eligible business, or an authorized agent of
41 the owner, shall certify that the information provided pursuant to this
42 section is true under the penalty of perjury.
43

44 75. (New section) a. The total amount of the tax credit for an
45 eligible business for each new or retained full-time job shall be as set
46 forth in subsections b. through g. of this section. The total tax credit
47 amount shall be calculated and credited to the business annually for
48 each year of the eligibility period, notwithstanding any other

1 provisions of P.L. , c. (C.) (pending before the Legislature
2 as this bill) to the contrary.

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

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

7 (2) for a qualified business facility located within a distressed
8 municipality, \$3,500 per year;

9 (3) for a qualified business facility located within a transit hub
10 municipality but not qualifying under paragraph (1) of this
11 subsection, 3,000 per year;

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

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

15 c. (1) In addition to the base amount of the tax credit, the
16 amount of the tax credit to be awarded for each new or retained full-
17 time job shall be increased with the following bonuses:

18 (a) for an eligible business with a qualified business facility
19 located in a municipality with a Municipal Revitalization Index score
20 greater than 50, an increase of \$1,000 per year;

21 (b) for an eligible business with a qualified business facility at
22 which the capital investment in industrial or research and
23 development premises for industrial or research and development use
24 by the business is in excess of the minimum capital investment
25 required for eligibility pursuant to subsection b. of section 71 of
26 P.L. , c. (C.) (pending before the Legislature as this bill), an
27 increase of \$1,000 per year for each additional amount of investment
28 that exceeds the minimum amount required for eligibility by 40
29 percent, with a maximum increase of \$3,000 per year, unless the
30 project qualifies as a mega project or the qualified business facility
31 is located in a government-restricted municipality, in which case the
32 maximum increase is \$5,000 per year;

33 (c) for an eligible business with large numbers of new full-time
34 jobs during the commitment period, the increases shall be in
35 accordance with the following schedule:

36 (i) if the number of new full-time jobs is between 251 and 400,
37 \$500 per year;

38 (ii) if the number of new full-time jobs is between 401 and 600,
39 \$750 per year;

40 (iii) if the number of new full-time jobs is between 601 and 800,
41 \$1000 per year;

42 (iv) if the number of new full-time jobs is between 801 and 1,000,
43 \$1,250 per year;

44 (v) if the number of new full-time jobs is in excess of 1,000,
45 \$1,500 per year;

46 (d) for an eligible business that annually funds an industry-
47 specific training program, which has the capacity to enroll 10 percent
48 or more of the eligible business's full-time workforce, or pays a State

1 educational institution to provide to the public an industry-specific
2 training program, an increase of \$500 per year; provided, however,
3 that if the training program is provided by a State educational
4 institution that is within 10 miles of the qualified business facility,
5 then the increase shall be \$1,000 per year;

6 (e) for an eligible business that qualifies as a small business, an
7 increase of \$500 per year;

8 (f) (i) for an eligible business with new full-time jobs and
9 retained full-time jobs at the qualified business facility with a median
10 salary in excess of the existing median salary for the county in which
11 the project is located, or, in the case of a project in a government-
12 restricted municipality, a business that employees full-time positions
13 at the project with a median salary in excess of the median salary for
14 the government-restricted municipality, an increase of \$250 per year
15 during the eligibility period for each 35 percent by which the
16 project's median salary levels exceeds the county or government-
17 restricted municipality median salary, with a maximum increase of
18 \$1,500 per year;

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

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

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

25 (j) for an eligible business that enters into a labor harmony
26 agreement in accordance with subsection c. of section 73 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill), an increase
28 of \$2,000 per year for the portion of the project subject to that labor
29 harmony agreement;

30 (k) for an eligible business that provides its employees access to
31 child care either through an on-site quality child care facility free of
32 charge to its employees or through reimbursements paid by the
33 eligible business to its employees for the cost of child care in
34 accordance with standards adopted by the authority, an increase of
35 \$1,000 per year;

36 (l) for an eligible business that enters into a partnership with a
37 prisoner re-entry program for the purpose of identifying and
38 promoting employment opportunities at the eligible business for
39 former inmates and current inmates leaving the corrections system,
40 and that hires at least one active participant in the re-entry program,
41 an increase of \$500 per year.

42 (m) for an eligible business with a qualified business facility that
43 exceeds the Leadership in Energy and Environmental Design's
44 "Silver" rating standards but does not exceed "Gold" rating standards
45 or completes substantial environmental remediation, an additional
46 increase of \$250 per year, or for an eligible business with a qualified
47 business facility that exceeds the Leadership in Energy and

- 1 Environmental Design's "Gold" rating standards, an additional
2 increase of \$500 per year;
- 3 (n) for an eligible business in a targeted industry with a qualified
4 business facility that is used by the eligible business to conduct a full
5 time collaborative relationship with a college or university,
6 including, but not limited to, a doctoral university, an increase of
7 \$1,000 per year;
- 8 (o) for an eligible business with a project that generates solar
9 energy on site for use within the qualified business facility of an
10 amount that equals at least 50 percent of the qualified business
11 facility electric supply service needs, an increase of \$500 per year;
- 12 (p) for an eligible business with a marine terminal project in a
13 municipality located outside a government-restricted municipality,
14 but within the geographical boundaries of the South Jersey Port
15 District, an increase of \$1,500 per year; and
- 16 (q) for an eligible business with a qualified business facility
17 located in a qualified opportunity zone, an increase of \$1,000 per
18 year.
- 19 (2) The authority shall not award a bonus to an eligible business
20 with full-time jobs at the qualified business facility that pay less than
21 \$15 per hour or 120 percent of the minimum wage fixed under
22 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
23 whichever is higher.
- 24 (3) The authority may adopt, pursuant to the provisions of the
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
26 seq.), criteria in addition to, or in place of, the criteria set forth in
27 paragraph (1) of this subsection in response to the prevailing
28 economic conditions in the State.
- 29 d. The gross amount of the tax credit available to an eligible
30 business for each new or retained full-time job shall be the sum of
31 the base amount set forth in subsection b. of this section and the
32 various additional bonus amounts for which the business is eligible
33 pursuant to subsection c. of this section, subject to the following
34 limitations:
- 35 (1) for a mega project or a project in a government-restricted
36 municipality, the gross amount for each new or retained full-time job
37 shall not exceed \$8,000 per year;
- 38 (2) for a qualified business facility located within a distressed
39 municipality or qualified opportunity zone, the gross amount for each
40 new or retained full-time job shall not exceed \$6,000 per year;
- 41 (3) for a qualified business facility in a transit hub municipality,
42 the gross amount for each new or retained full-time job shall not
43 exceed \$5,000 per year;
- 44 (4) for a qualified business facility in an employment and
45 investment corridor, the gross amount for each new or retained full-
46 time job shall not exceed \$4,000 per 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 per
5 full-time job if the median salary of new full-time jobs and retained
6 full-time jobs at the qualified business facility is less than the existing
7 median salary for the county in which the qualified business facility
8 is located. The authority shall reduce the gross amount of tax credits
9 per full-time job by an amount, in percentage points, equal to the
10 percentage the median salary of new full-time jobs and retained full-
11 time jobs at the qualified business facility is below the existing
12 median salary for the county in which the qualified business facility
13 is located. The authority shall not award a tax credit to an eligible
14 business if the median salary of new full-time jobs and retained full-
15 time jobs at the qualified business facility is 30 percent or more
16 below the existing median salary for the county in which the qualified
17 business facility is located.

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

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

40

41 76. (New section) a. (1) If, in any tax period, an eligible
42 business reduces the total number of full-time employees in its
43 Statewide workforce by more than 20 percent from the number of
44 full-time employees in its Statewide workforce in the last tax period
45 prior to the credit amount approval under the program, then the
46 eligible business shall forfeit its credit amount for that tax period and
47 each subsequent tax period, until the first tax period for which
48 documentation demonstrating the restoration of the eligible

1 business's Statewide workforce to the threshold levels required by
2 this subsection has been reviewed and approved by the authority, for
3 which tax period and each subsequent tax period the full amount of
4 the credit shall be allowed.

5 (2) If the annual report filed by an eligible business pursuant to
6 section 77 of P.L. , c. (C.) (pending before the Legislature
7 as this bill) provides that the number of new full-time employees
8 employed by the eligible business at the qualified business facility,
9 or the salaries thereof, was reduced by more than 10 percent of the
10 number of new full-time employees, or salaries thereof, in the annual
11 report of the prior year, or the project agreement if the annual report
12 is the first such report filed, then the authority may reevaluate the net
13 positive economic benefit of the project and reduce the size of the
14 award accordingly. This reduction shall not affect any recapture
15 under subsection f. of this section.

16 b. If, in any tax period, the number of full-time employees
17 employed by the eligible business at the qualified business facility,
18 or the salaries thereof, drops below 80 percent of the number of new
19 and retained full-time jobs, and the salaries thereof, specified in the
20 project agreement or the incentive phase agreement, then the eligible
21 business shall forfeit its tax credit amount for that tax period and each
22 subsequent tax period, until the first tax period for which
23 documentation demonstrating the restoration of the number of full-
24 time employees employed by the eligible business at the qualified
25 business facility to 80 percent of the number of jobs specified in the
26 project agreement or incentive phase agreement or the restoration of
27 80 percent of the salaries specified in the project agreement is
28 reviewed and approved by the authority.

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

31 (1) If the qualified business facility is sold in whole or in part
32 during the eligibility period, the new owner shall not acquire the
33 capital investment of the seller, provided, however, that any tax
34 credits of tenants shall remain unaffected. The seller shall forfeit all
35 tax credits for the tax period in which the sale occurs and all
36 subsequent tax periods, provided, however, that an eligible business
37 may change the location of the qualified business facility if:

38 (a) the new facility:

39 (i) meets all applicable location qualifying criteria and has gross
40 leasable area not less than the gross leasable area of the qualified
41 business facility initially approved by the authority and the alternate
42 qualified business facility meets the minimum capital investment and
43 sustainability requirements of the program; or

44 (ii) does not meet all applicable location qualifying criteria or has
45 less gross leasable area than the gross leasable area of the qualified
46 business facility initially approved by the authority, if the alternate
47 qualified business facility meets the minimum capital investment and
48 sustainability requirements of the program, provided that the

1 authority shall require a new cost benefit analysis illustrating the
2 economics of the project which reflect occupancy at the alternate
3 proposed qualified business facility location for the remaining
4 duration of the commitment period and shall re-calculate the net
5 economic benefit of the project to reflect the economics of occupancy
6 at the alternate proposed location for the remaining duration of the
7 net benefit test period in lieu of the economics of continuing
8 occupancy at the qualified business facility proposed to be vacated,
9 and provided further that the award of tax credits shall be reduced
10 consistent with the variations in qualifying criteria for the alternate
11 qualified business facility location as well as in a manner consistent
12 with the revised net economic benefit calculation.

13 (b) in the event that the modified project economics materially
14 deviate from the economics of the initial approval in a manner that
15 undermines the recommendation of approval made by the staff of the
16 authority at the time of the initial approval, then the business
17 requesting to re-locate a qualified business facility shall be required
18 to obtain the approval of the members of the authority.

19 (2) If a tenant subleases its tenancy in whole or in part during the
20 eligibility period, the new tenant shall not acquire the tax credits of
21 the sublessor, and the sublessor shall forfeit all tax credits for any tax
22 period of its sublease in which the sublessor, in continued occupation
23 of a portion of the qualified business facility, fails to maintain the
24 number of jobs required for the sublessor to earn tax credits for the
25 tax period or fails to independently satisfy the minimum capital
26 investment or sustainability requirements for the program as set forth
27 in section 71 of P.L. , c. (C. or C.) (pending before the
28 Legislature as this bill). Provided, however, if the capital investment
29 of the sublessor in the occupied portion of the qualified business
30 facility is below the project minimum capital investment as set forth
31 in section 71 of P.L. , c. (C.) (pending before the Legislature
32 as this bill), the sublessor may include capital investment made by or
33 on behalf of the new tenant in the subleased portion of the qualified
34 business facility, so long as that capital investment is not the subject
35 of an independent application under an incentive program with the
36 authority.

37 d. A small business may move its qualified business facility
38 provided that the business remains in New Jersey during the
39 commitment period.

40 e. The authority may require a small business to submit a growth
41 plan, which specifies the number of new full-time employees at the
42 qualified business facility that the eligible business will hire each
43 year of the eligibility period; provided that by the end of the
44 eligibility period, the eligible business shall have a minimum of 25
45 percent growth of its workforce with new full-time jobs. If the
46 eligible business meets the number of new full-time employees
47 specified in the growth plan each year of the eligibility period, then
48 the eligible business shall be entitled to an increased credit amount

1 for that tax period, and each subsequent tax period, for each
2 additional full-time employee added above the number of full-time
3 employees certified, until the full-time employees number the
4 maximum number projected for the final year of the eligibility
5 period. Failure to meet the projections in any year shall not constitute
6 a default but shall cause the authority to reduce the award in
7 accordance with a schedule attached to the project agreement.

8 f. (1) The authority may recapture all or part of a tax credit
9 awarded if an eligible business does not remain in compliance with
10 the requirements of a project agreement for the duration of the
11 commitment period. A recapture pursuant to this subsection may
12 include interest on the recapture amount, at a rate equal to the
13 statutory rate for corporate business or insurance premiums tax
14 deficiencies, plus any statutory penalties, and all costs incurred by
15 the authority and the Division of Taxation in the Department of the
16 Treasury in connection with the pursuit of the recapture, including,
17 but not limited to, counsel fees, court costs, and other costs of
18 collection. Failure of the eligible business to meet any program
19 criteria shall constitute a default and shall result in the recapture of
20 all or part of the tax credit awarded.

21 (2) If all or part of a tax credit sold or assigned pursuant to section
22 78 of P.L. , c. (C.) (pending before the Legislature as this
23 bill) is subject to recapture, then the authority shall pursue recapture
24 from the eligible business and not from the purchaser or assignee of
25 the tax credit transfer certificate. The purchaser or assignee of a tax
26 credit transfer certificate shall be subject to any limitations and
27 conditions that apply to the use of the tax credits by the eligible
28 business.

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

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

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

1 77. (New section) a. (1) An eligible business which is awarded
2 tax credits under the program shall submit annually, no later than the
3 date indicated in the project agreement, commencing in the year in
4 which the grant of tax credits is issued and for the remainder of the
5 commitment period, a report that indicates that the eligible business
6 continues to maintain the number of new and retained full-time jobs,
7 and the salaries thereof, specified in the project agreement. As part
8 of the annual report required pursuant to this subsection, an eligible
9 business shall provide to the authority a copy of its applicable New
10 Jersey tax return showing business income and withholdings as a
11 condition of its continuation in the program, and the quarterly wage
12 report required under R.S.43:21-14 submitted to the Department of
13 Labor and Workforce Development together with an annual payroll
14 report showing: (a) the new full-time jobs which were created in
15 accordance with the project agreement, and (b) the new full-time jobs
16 created during each subsequent year of the commitment period. The
17 failure of an eligible business to submit to the authority a copy of its
18 annual payroll report or submit the quarterly wage report in
19 accordance with the provisions of this subsection during the
20 eligibility period shall result in the forfeiture of the award for that
21 year. An eligible business shall explain, in the reports required by
22 this subsection, the reason for any discrepancies between the annual
23 payroll report submitted by the eligible business and the quarterly
24 wage report. The owner of the eligible business, or an authorized
25 agent of the owner, shall certify that the information provided
26 pursuant to this paragraph is true under the penalty of perjury.
27 Claims, records, or statements submitted by an eligible business to
28 the authority in order to receive tax credits shall not be considered
29 claims, records, or statements made in connection with State tax
30 laws.

31 (2) Upon receipt and review of each report submitted during the
32 eligibility period, the authority shall provide to the eligible business
33 and the director a certificate of compliance indicating the amount of
34 tax credits that the eligible business may apply against its tax
35 liability. The authority shall pro rate the tax credit for the first and
36 last years of the eligibility period based on the number of full months
37 the project was certified in the year the eligible business first
38 certifies.

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

42 (2) An eligible business shall forfeit the credit amount for any tax
43 period for which the eligible business's documentation remains
44 uncertified as of the date for certification indicated in the project
45 agreement, although credit amounts for the remainder of the years of
46 the eligibility period shall remain available to the eligible business.

- 1 c. Full-time employment for an accounting or privilege period
- 2 shall be determined as the average of the monthly full-time
- 3 employment for the period.
- 4 d. (1) Upon receipt by the director of the certificate of
- 5 compliance, the director shall allow the eligible business a tax credit.
- 6 The eligible business may apply the credit allowed by the director
- 7 against the eligible business's tax liability for the tax period in which
- 8 the director allowed the tax credit or may carry forward the credit for
- 9 use by the eligible business in any of the next seven successive tax
- 10 periods, which credit shall expire thereafter.
- 11 (2) (a) The amount of credit allowed may be applied against the
- 12 tax liability otherwise due pursuant to section 5 of P.L.1945, c.162
- 13 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
- 14 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
- 15 N.J.S.17B:23-5.
- 16 (b) Credits granted to a partnership shall be passed through to the
- 17 partners, members, or owners, respectively, pro-rata, or pursuant to
- 18 an executed agreement among the partners, members, or owners
- 19 documenting an alternate distribution method provided to the director
- 20 accompanied by any additional information as the director may
- 21 prescribe. With respect to credits passed through to a person subject
- 22 to tax liability due pursuant to sections 2 or 3 of P.L.1945, c.132
- 23 (C.54:18A-2 and C.54:18A-3), the person shall be allowed to apply
- 24 credits against the person's tax liability without the provision of a tax
- 25 credit certificate to the Division of Taxation in the Department of the
- 26 Treasury for the tax period accompanying the person's tax return and
- 27 the person shall be considered the tax certificate holder and be subject
- 28 to subparagraph (c) of this paragraph. The authority may recapture
- 29 all or part of any tax credits claimed by a person pursuant to
- 30 subparagraph (b) of this paragraph with penalties and interest from
- 31 the person or the business in the event the Division of Taxation in the
- 32 Department of the Treasury does not issue a tax credit certificate in
- 33 an amount at least equal to the tax credit amount claimed on the
- 34 person's tax return for the applicable tax period.
- 35 (3) The director shall prescribe the order of priority of the
- 36 application of the credit allowed under this section and any other
- 37 credits allowed by law against the tax imposed under section 5 of
- 38 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied under
- 39 this section against the tax imposed pursuant to section 5 of P.L.1945,
- 40 c.162 (C.54:10A-5) for a privilege period, together with any other
- 41 credits allowed by law, shall not reduce the tax liability to an amount
- 42 less than the statutory minimum provided in subsection (e) of section
- 43 5 of P.L.1945, c.162 (C.54:10A-5).
- 44 (4) In lieu of applying any credit certificate or credit transfer
- 45 certificate against tax liability otherwise due pursuant to section 5 of
- 46 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
- 47 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
- 48 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit

1 transfer certificate may be surrendered to the Division of Taxation in
2 the Department of the Treasury for a cash payment equal to 90
3 percent of the amount of tax credits evidenced by the certificate,
4 provided that the issuance date of the credit certificate or credit
5 transfer certificate to the taxpayer surrendering such certificate
6 occurred at least two years prior to the date of surrender.

7
8 78. (New section) a. An eligible business may apply to the
9 director and the chief executive officer of the authority for a tax credit
10 transfer certificate, within three years of the tax period in which the
11 director allows the eligible business a tax credit, in lieu of any amount
12 of the tax credit against the eligible business's State tax liability. The
13 tax credit transfer certificate, upon receipt thereof by the eligible
14 business from the director and the chief executive officer of the
15 authority, may be sold or assigned, in an amount not less than
16 \$25,000, within three years of the tax period in which the eligible
17 business receives the tax credit transfer certificate from the director,
18 to another person that may have a tax liability pursuant to section 5
19 of 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 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
21 15), or N.J.S.17B:23-5. A purchaser or assignee of a tax credit
22 transfer certificate pursuant to this section shall apply the transferred
23 credit against the same tax for which the eligible business was
24 approved a tax credit under the program. The tax credit transfer
25 certificate provided to the eligible business shall include a statement
26 waiving the eligible business's right to claim the credit that the
27 eligible business has elected to sell or assign.

28 b. (1) The eligible business shall not sell or assign a tax credit
29 transfer certificate allowed under this section for consideration
30 received by the eligible business of less than 85 percent of the
31 transferred credit amount before considering any further discounting
32 to present value which shall be permitted. The tax credit transfer
33 certificate issued to the eligible business by the director shall be
34 subject to any limitations and conditions imposed on the application
35 of State tax credits pursuant to sections 70 through 81 of P.L. , c.
36 (C.) (pending before the Legislature as this bill) and any other
37 terms and conditions that the director may prescribe.

38 (2) With respect to credits to be sold or assigned, in full or in part,
39 pursuant to an application to the authority for a tax credit transfer
40 certificate by a business to a person subject to tax liability due
41 pursuant to sections 2 or 3 of P.L.1945, c.132 (C.54:18A-2 or
42 C.54:18A-3), the person shall be allowed to apply the credits against
43 the person's tax liability without the provision of a tax credit
44 certificate to the Division of Taxation in the Department of the
45 Treasury for the tax period accompanying its tax return, and the
46 person be considered a tax credit transferee and be subject to
47 paragraph (3) of this subsection.

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

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

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

13 (1) the name of the transferrer;

14 (2) the name of the transferee;

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

16 (4) the State tax against which the transferee may apply the tax
17 credit; and

18 (5) the consideration received by the transferrer.

19

20 79. (New section) a. The authority shall establish a dedicated
21 fund to be known as the "Recovery Infrastructure Fund." Money in
22 the fund shall be dedicated to the purpose of funding local
23 infrastructure, which shall include:

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

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

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

30 (4) open space without improvements;

31 (5) public transportation facilities such as train stations and
32 public parking facilities; and

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

34 b. The fund shall be credited with money remitted by eligible
35 businesses pursuant to paragraph (2) of subsection b. of section 71 of
36 P.L. , c. (C.) (pending before the Legislature as this bill).

37 c. Money remitted to the fund by an eligible business pursuant
38 to paragraph (2) of subsection b. of section 71 of P.L. , c. (C.)
39 (pending before the Legislature as this bill) shall be earmarked for
40 use on local infrastructure projects in the municipality in which the
41 eligible business's project is located.

42 d. A municipality shall apply to the authority, in a form and
43 manner prescribed by the authority, for disbursements from the
44 Recovery Infrastructure Fund. The authority, in consultation with
45 the Department of Community Affairs, shall review and approve
46 applications for disbursements of money from the fund pursuant to
47 the provisions of this section and the rules and regulation

1 promulgated by the authority pursuant to paragraph (1) of subsection
2 f. of this section.

3 e. The Department of Community Affairs shall coordinate with
4 the authority and other boards, commissions, institutions,
5 departments, agencies, State officers, and employees to carry out the
6 local infrastructure projects funded through the Recovery
7 Infrastructure Fund.

8 f. (1) The authority shall adopt rules and regulations pursuant to
9 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), to effectuate the purposes of subsections a. through d. of this
11 section.

12 (2) The Department of Community Affairs shall adopt rules and
13 regulations pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
15 subsection e. of this section.

16
17 80. (New section) Beginning the year next following the year in
18 which P.L. , c. (C.) (pending before the Legislature as this
19 bill) takes effect and every two years thereafter, a State college or
20 university shall, pursuant to an agreement executed between the State
21 college or university and the authority, prepare a report on the
22 implementation of the program, and submit the report to the
23 authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164
24 (C.52:14-19.1), to the Legislature. Each biennial report required
25 under this section shall include a description of each eligible business
26 receiving a tax credit under the program, a detailed analysis of the
27 consideration given to each applicant, an analysis of whether the
28 incentives awarded influenced the eligible business's decisions to
29 locate a qualified business facility in the State, the return on
30 investment for incentives awarded, the eligible business's impact on
31 the State's economy, and any other metrics the State college
32 determines are relevant based upon national best practices. The
33 authority shall prepare a written response to the report, which the
34 authority shall submit to the Governor and, pursuant to section 2 of
35 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

36
37 81. (New section) Notwithstanding the provisions of the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.), to the contrary, the chief executive officer of the authority may
40 adopt, immediately, upon filing with the Office of Administrative
41 Law, regulations that the chief executive officer deems necessary to
42 implement the provisions of sections 70 through 81 of P.L. , c.
43 (C.) (C.) (pending before the Legislature as this bill),
44 including but not limited to examples of and the determination of
45 capital investment and the determination of the limits, if any, on the
46 expense or type of furnishings that may constitute capital
47 improvements, which regulations shall be effective for a period not
48 to exceed 180 days from the date of the filing. The chief executive

1 officer shall thereafter amend, adopt, or readopt the regulations in
2 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et
3 seq.).

4
5 82. (New section) Sections 82 through 88 of P.L. , c. (C.)
6 (pending before the Legislature as this bill) shall be known and may
7 be cited as the "Main Street Recovery Finance Program Act."

8
9 83. (New section) As used in sections 82 through 88 of P.L. , c.
10 (C.) (pending before the Legislature as this bill):

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

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

16 "Eligible microbusiness" means a business enterprise located in
17 the State that produces goods or provides services and has fewer than
18 10 full-time equivalent employees and annual gross revenue of less
19 than \$1,000,000 at the time of application for a loan under the
20 program.

21 "Eligible small business" means any business that satisfies the
22 criteria set forth in subsection b. of section 85 of P.L. , c. (C.)
23 (pending before the Legislature as this bill) at the time of application
24 for a grant under the program.

25 "Program" means the Main Street Recovery Finance Program
26 established pursuant to section 84 of P.L. , c. (C.) (pending
27 before the Legislature as this bill).

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

34
35 84. (New section) The Main Street Recovery Finance Program is
36 hereby established as a program under the jurisdiction of the New
37 Jersey Economic Development Authority. The authority shall
38 administer the program for the purpose of providing grants, loans,
39 and loan guarantees to eligible small businesses in accordance with
40 the provisions of sections 82 through 88 of P.L. , c. (C.)
41 (pending before the Legislature as this bill). A business seeking a
42 grant, loan, or loan guarantee under the program shall submit an
43 application to the authority. The authority shall adopt eligibility
44 criteria for the program and may consider a business's benefit to the
45 community in which it is situated and the degree to which the
46 business enhances and promotes job creation and economic
47 development in communities that have been severely impacted by the
48 COVID-19 pandemic when making awards under the program.

1 85. (New section) a. As part of the Main Street Recovery Finance
2 Program, the authority shall provide grants to eligible small
3 businesses from the Main Street Recovery Fund, subject to
4 appropriation or the availability of federal funds provided that not
5 less than 40 percent of such funds shall be made available to eligible
6 microbusinesses certified by the State as a "minority business" or a
7 "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et
8 seq.). Grants awarded pursuant to the program may be used by an
9 eligible small business for capital improvements or to cover
10 operating expenses. The authority may dedicate up to 10 percent of
11 any amount appropriated for the purposes of this section to provide
12 technical assistance grants to eligible microbusinesses.

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

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

21 (b) each worker employed by the small business shall be paid not
22 less than \$15 per hour or 120 percent of the minimum wage fixed
23 under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
24 whichever is higher.

25 (2) In addition to the requirements of paragraph (1) of this
26 subsection, a small business shall be eligible to receive a grant
27 pursuant to this subsection for capital improvements only if the small
28 business demonstrates to the authority at the time of application that:

29 (a) any capital improvement undertaken with grant funds shall
30 comply with standards established by the authority in accordance
31 with the green building manual prepared by the Commissioner of
32 Community Affairs pursuant to section 1 of P.L.2007, c.132
33 (C.52:27D-130.6), regarding the use of renewable energy, energy-
34 efficient technology, and non-renewable resources to reduce
35 environmental degradation and encourage long-term cost reduction;
36 and

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

43 c. Prior to March 1, 2025, an eligible small business seeking a
44 grant pursuant to this section shall submit an application for approval
45 to the authority in the form and manner prescribed in regulations
46 adopted by the authority pursuant to the provisions of the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.). Before the board may consider an eligible small business's

1 application for grants, the Department of Labor and Workforce
2 Development, the Department of Environmental Protection, and the
3 Department of the Treasury shall each report to the chief executive
4 officer of the authority whether the eligible small business is in
5 substantial good standing with the respective department, or has
6 entered into an agreement with the respective department that
7 includes a practical corrective action plan for the eligible small
8 business. The authority may also contract with an independent third
9 party to perform a background check on the eligible small business.
10 The eligible small business, or an authorized agent thereof, shall
11 certify under the penalty of perjury that any information provided in
12 the application required pursuant to this subsection is true.

13 d. Following approval by the board, but before the disbursement
14 of grant funds, the authority shall require an eligible small business
15 to enter into a grant agreement. The grant agreement shall specify
16 the amount of the grant to be awarded the eligible small business and
17 the frequency of payments. If the authority determines that an
18 eligible small business made a material misrepresentation on the
19 eligible small business's grant application or the eligible small
20 business has failed to comply with any requirement set forth in
21 paragraphs (1) through (4) of subsection b. of this section, then the
22 small business shall return to the authority any grant awarded
23 pursuant to this section.
24

25 86. (New section) a. As part of the Main Street Recovery Finance
26 Program, the authority shall make available from the Main Street
27 Recovery Fund, subject to annual appropriation and the availability
28 of funds, to eligible community development finance institutions
29 pursuant to subsection b. of this section and to eligible
30 microbusinesses pursuant to subsection c. of this section, provided
31 that not less than 40 percent of such funds shall be made available to
32 eligible microbusinesses certified by the State as a "minority
33 business" or a "women's business" pursuant to P.L.1986, c.195
34 (C.52:27H-21.17 et seq.). The authority may dedicate up to 10
35 percent of any amount appropriated for the purposes of this section
36 to provide technical assistance grants to eligible microbusinesses.

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

47 c. The authority shall provide loans to eligible microbusinesses
48 in accordance with this subsection. Loans made available to eligible

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

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

32
33 87. (New section) a. To aid in the economic recovery of those
34 communities most impacted by the COVID-19 pandemic and to
35 better ensure their long-term economic growth, there is created the
36 "Main Street Recovery Fund" to be held by the State Treasurer. All
37 moneys deposited in the fund shall be held and disbursed in the
38 amounts necessary to fulfill the purposes of providing grants and
39 loans pursuant to sections 85 and 86 of P.L. , c. (C.) (pending
40 before the Legislature as this bill) and the purposes enumerated in
41 subsection b. of this section, and for reasonable administrative costs
42 of implementing sections 82 through 88 of P.L. , c. (C.)
43 (pending before the Legislature as this bill). The fund may be
44 credited with pay backs; bonuses; entitlements; money received from
45 the federal government; transfers; grants; gifts; bequests; moneys
46 appropriated by the Legislature; or any other money made available
47 from any source. The State Treasurer, in consultation with the
48 authority, may invest and reinvest any moneys in the fund in the State

1 Treasurer's discretion. Any income from, interest on, or increment
2 to moneys so invested or reinvested shall be included in the fund.

3 b. Upon application to the State Treasurer, and in consultation
4 with the Chief Executive Officer of the New Jersey Economic
5 Development Authority, the State Treasurer shall make loan
6 guarantees from the fund to leverage private and public lending to
7 help finance small businesses, real estate developments, and
8 manufacturers that are creditworthy but not receiving the financing
9 needed to expand and create jobs. In making loan guarantees under
10 this section, the State Treasurer shall give due consideration to small
11 businesses and real estate developments in underserved communities
12 throughout the State that have been deeply impacted by the COVID-
13 19 pandemic.

14 c. (1) The State Treasurer shall monitor the activities of the
15 beneficiaries of the loan guarantees issued pursuant to this section on
16 an annual basis to ensure compliance with the terms and conditions
17 imposed on the recipient by the chief executive officer.

18 (2) An entity receiving a loan guarantee and the beneficiaries of
19 such loan guarantee under this section shall provide the State
20 Treasurer with an annual accounting of how the benefit it received
21 from the fund was applied.

22 (3) The annual accounting required under this section shall
23 include certifications by the Department of Labor and Workforce
24 Development, the Department of Environmental Protection, and the
25 Department of the Treasury that the entity and the beneficiaries are
26 in substantial good standing with the respective departments, or have
27 entered into an agreement with the respective department that
28 includes a practical corrective action plan.

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

32

33 88. (New section) Notwithstanding the provisions of the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), to the contrary, the chief executive officer of the authority may
36 adopt, immediately, upon filing with the Office of Administrative
37 Law, regulations that the chief executive officer deems necessary to
38 implement the provisions of sections 82 through 88 of P.L. , c.
39 (C.) (pending before the Legislature as this bill), which
40 regulations shall be effective for a period not to exceed 180 days from
41 the date of the filing. The chief executive officer shall thereafter
42 amend, adopt, or readopt the regulations in accordance with the
43 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

44

45 89. (New section) a. The Director of the Division of Taxation in
46 the Department of the Treasury may purchase unused tax credits
47 awarded under a program listed in subsection b. of this section,
48 including tax credit transfer certificates issued by the director in lieu

1 of a tax credit allowed under such programs. The director shall not
2 pay consideration in excess of 75 percent of the credit amount to be
3 purchased, except for a credit awarded under the " Emerge Program
4 Act," sections 68 through 81 of P.L. , c. (C.) (pending before
5 the Legislature as this bill), which shall be subject to the provisions
6 of paragraph (4) of subsection d. of section 77 of P.L. , c. (C.)
7 (pending before the Legislature as this bill).

8 b. The Director of the Division of Taxation in the Department of
9 the Treasury may purchase tax credits awarded under the following:

10 (1) the "Historic Property Reinvestment Act," sections 1 through
11 8 of P.L. , c. (C.) (pending before the Legislature as this
12 bill);

13 (2) the "Brownfield Redevelopment Incentive Program Act,"
14 sections 9 through 19 of P.L. , c. (C.) (pending before the
15 Legislature as this bill);

16 (3) the "New Jersey Innovation Evergreen Act," sections 20
17 through 34 of P.L. , c. (C.) (pending before the Legislature
18 as this bill);

19 (4) the "Food Desert Relief Act," sections 35 through 42 of
20 P.L. , c. (C.) (pending before the Legislature as this bill);

21 (5) the "New Jersey Community-Anchored Development Act,"
22 sections 43 through 53 of P.L. , c. (C.) (pending before the
23 Legislature as this bill);

24 (6) the "New Jersey Aspire Program Act," sections 54 through 67
25 of P.L. , c. (C.) (pending before the Legislature as this bill);

26 (7) the " Emerge Program Act," sections 68 through 81 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill);

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

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

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

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

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

36
37 90. (New section) a. There is established in the New Jersey
38 Economic Development Authority a Working Group on Entrepreneur
39 Zones for the purpose of making recommendations for the
40 establishment of entrepreneur zones throughout the State. The
41 working group shall consider whether the establishment of
42 entrepreneur zones in which the State provides the tax incentives,
43 regulation relief, and financial support to local entrepreneurs is the
44 most effective way to create jobs in the State. The working group
45 shall identify census tracts within the State that are suitable for
46 designation as an entrepreneur zone.

1 b. The working group shall consist of seven members appointed
2 by the chief executive officer of the New Jersey Economic
3 Development Authority.

4 c. Appointments to the working group shall be made within 30
5 days after the effective date of this act. Vacancies in the membership
6 of the working group shall be filled in the same manner as the original
7 appointments were made.

8
9 91. (New section) a. As used in this section:

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

13 "State agency" means any principal department in the Executive
14 Branch of State government, and any division, board, bureau, office,
15 commission or other instrumentality within or created by such
16 department, and any independent State authority, commission,
17 instrumentality or agency, other than in the Legislative or Judicial
18 Branches of State government, which is authorized by law to award
19 public contracts.

20 b. Notwithstanding the provisions of any other law to the
21 contrary, whenever the Director of the Division of Purchase and
22 Property, or the head of any State agency shall consider bids on any
23 contract for the purchase of personal protective equipment that is
24 publicly advertised for bids, the director or the head of a State agency
25 shall list the bidders in order based upon which bid, conforming to
26 the invitation for bids, would be most advantageous to the State,
27 price, and other factors considered. If the first bidder on the list has
28 its principal place of business in this State it shall be awarded the
29 contract. If no bidder having its principal place of business in this
30 State has submitted a bid that is within five percent of the bid
31 submitted by the bidder at the top of the list that has its principal
32 place of business outside of this State, the contract shall be awarded
33 to the bidder at the top of the list. If the first bidder on the list has its
34 principal place of business outside of this State and a bidder that has
35 its principal place of business in this State is on the list and has
36 submitted a bid that is within five percent of the bid submitted by the
37 bidder at the top of the list that has its principal place of business
38 outside of this State, the contract shall be awarded to the highest
39 listed in-State bidder.

40 Any specifications for the provision or personal protective
41 equipment under this act shall be drafted in a manner to encourage
42 free, open, and competitive bidding.

43 Any specification which knowingly excludes prospective bidders
44 by reason of the impossibility of performance, bidding, or
45 qualifications by any but one bidder shall be null and void and of no
46 effect.

47 c. The State Treasurer shall adopt such rules and regulations as
48 may be necessary to implement the provisions of this section

1 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
2 (C.52:14B-1 et seq.).

3
4 92. (New section) Sections 92 through 97 of P.L. , c. (C.)
5 (pending before the Legislature as this bill) shall be known and may
6 be cited as the "New Jersey Ignite Act."

7
8 93. (New section) As used in sections 92 through 97 of P.L. , c.
9 (C.) (pending before the Legislature as this bill):

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

13 "Authority commitment period" means the period for which the
14 authority commits to provide a start-up rent grant for the payment of
15 rent in a collaborative workspace

16 "Collaborative workspace" means a business facility certified
17 pursuant to section 95 of P.L. , c. (C.) (pending before the
18 Legislature as this bill), located in this State, developed to provide
19 flexible workspaces for early stage innovation economy businesses,
20 and designed to encourage community and collaboration within an
21 inter-connected environment in which multiple start-up businesses
22 have access to shared community events and shared workplace
23 accommodations including, but not limited to, kitchens and
24 makerspaces.

25 "Collaborative workspace commitment period" means a period of
26 months equal to one-half the number of months of the authority
27 commitment period.

28 "Community event" means an event hosted by a collaborative
29 workspace and accessible to start-up tenant or member businesses,
30 without charge or with nominal charge, organized to support an
31 innovation ecosystem, as defined in section 21 of P.L. , c.
32 (C.) (pending before the Legislature as this bill), at the
33 collaborative workspace, including, but not limited to, events such as
34 meet-ups, speaker series, and office hours for lawyers, accountants,
35 consultants, or investors.

36 "Early stage innovation economy business" means a business that
37 operates within a targeted industry with at least one full-time
38 employee, who is assigned to the collaborative workspace, and fewer
39 than 10 employees overall and with less than \$1,000,000 in gross
40 sales over the 12-month period immediately prior to submitting an
41 application for tenancy at a collaborative workspace. To be
42 considered an "early stage innovation economy business" the earliest
43 date of formation for the business must have been not more than three
44 years prior to utilizing or renting space in, or access to, the
45 collaborative workspace under the program, and the business shall
46 not have previously utilized or rented space in, or access to, another
47 collaborative workspace in the State.

1 "Full time employee" means a person who is: employed by the
2 start-up tenant or member business for at least 35 hours a week;
3 working as an independent contractor providing critical capabilities
4 to the start-up tenant or member business for at least 35 hours a week;
5 or an owner or partner of the start-up tenant or member business who
6 works for at start-up tenant or member business for at least 35 hours
7 a week.

8 "Grant agreement" means an agreement between the authority and
9 the owner and operator of a collaborative workspace which
10 memorializes the terms and conditions of the collaborative
11 workspace's participation in the program.

12 "Program" means the New Jersey Ignite Program established
13 pursuant to section 94 of P.L. , c. (C.) (pending before the
14 Legislature as this bill).

15 "Targeted industry" means any industry identified from time to
16 time by the authority which shall initially include advanced
17 transportation and logistics, advanced manufacturing, aviation,
18 autonomous vehicle and zero-emission vehicle research or
19 development, clean energy, life sciences, hemp processing,
20 information and high technology, finance and insurance, professional
21 services, film and digital media, and non-retail food and beverage
22 businesses, including food innovation and other innovative industries
23 that disrupt current technologies or business models.

24 "Start-up rent grant" means a grant provided by the authority to a
25 collaborative workspace for the rent that would otherwise be due to
26 the collaborative workspace from a start-up tenant or member
27 business for the period of the authority commitment period.

28 "Start-up tenant or member business" means an early stage
29 innovation economy business that is registered to do business in New
30 Jersey, rents space in, or access to, a collaborative workspace under
31 the program, and enters into an agreement with the owner and
32 operator of the collaborative workspace to rent space in, or access to,
33 the collaborative workspace for an agreed upon period, which shall
34 include the authority commitment period, collaborative workspace
35 commitment period, and start-up tenant or member business
36 commitment period.

37 "Start-up tenant or member business commitment period" means
38 a period of months equal to the sum of the authority commitment
39 period and the collaborative workspace commitment period.

40

41 94. (New section) The New Jersey Ignite Program is hereby
42 established as a program under the jurisdiction of the authority. The
43 purpose of the program shall be to foster early stage innovation
44 economy businesses and to help those businesses overcome barriers
45 to commercial success. The authority shall structure the program as
46 a public-private partnership through which the authority provides
47 start-up rent grants to collaborative workspaces, certified pursuant to
48 section 95 of P.L. , c. (C.) (pending before the Legislature

1 as this bill), to support the early months of an early stage innovation
2 economy business's rent at the collaborative workspace.

3
4 95. (New section) a. The owner and operator of a business
5 facility located in the State may apply to the authority to have the
6 business facility certified as a collaborative workspace under the
7 program. A business facility shall be eligible for certification as a
8 collaborative workspace if:

9 (1) the business facility is developed to provide flexible
10 workspaces for early stage innovation economy businesses;

11 (2) the business facility is designed to encourage community and
12 collaboration within an inter-connected environment in which
13 multiple start-up businesses have access to shared workplace
14 accommodations;

15 (3) the owner and operator of the business facility commits to
16 hosting at least eight community events at the business facility each
17 year;

18 (4) the owner and operator of the business facility possesses a tax
19 clearance certificate issued by the Division of Taxation in the
20 Department of the Treasury;

21 (5) the owner and operator of the business facility possesses a
22 business registration certificate issued by the Division of Revenue in
23 the Department of the Treasury;

24 (6) at least five unique tenant or member businesses, in which the
25 owner and operator of the business facility does not have a direct
26 financial interest, have paid rent for space in, or access to, the
27 business facility over the two years immediately preceding the
28 submission of the application for certification as a collaborative
29 workspace pursuant to this section or, if the business facility has been
30 open for less than 90 days, the owner and operator of the business
31 facility provides to the authority at least three letters of intent from
32 prospective tenant or member businesses;

33 (7) the business facility is subject to ongoing operating costs,
34 such as rent, mortgage payments, or internal corporate charge-backs,
35 at the time of application for certification pursuant to this section;

36 (8) the owner and operator of the business facility offers at least
37 one type of workspace at the business facility for rent by an early
38 stage innovation economy business;

39 (9) the owner and operator of the business facility charges rent to
40 tenants or members; and

41 (10) the owner and operator of the business facility certifies that
42 any rent charged to a start-up tenant or member business is to be
43 market-rate.

44 b. In addition to the requirements set forth in subsection a. of
45 this section, for a business facility to qualify for certification as a
46 collaborative workspace, the authority may, in its discretion and
47 subject to available funds, require the owner and operator of the
48 business facility shall commit to paying one month's rent for a start-

1 up tenant or member business at the business facility for every two
2 months of rent to be paid by the authority as a start-up rent grant
3 under the program.

4 c. (1) The owner and operator of a business facility eligible for
5 certification as a collaborative workspace pursuant to subsections a.
6 and b. of this section shall submit an application for certification and
7 participation in the program in such form as required by the authority.
8 The application shall include any information the authority
9 determines is necessary to administer the program.

10 (2) In evaluating applications for certification as a collaborative
11 workspace, the authority may conduct site visits or perform any other
12 investigation necessary to confirm any statement made in the
13 application submitted by the owner and operator of the business
14 facility. If the authority later finds that any statement made in the
15 application for certification is inaccurate, then the authority may
16 rescind its certification of the collaborative workspace.

17 d. Following approval of an application for certification, to
18 participate in the program the authority and the owner and operator
19 of a collaborative workspace shall enter into a grant agreement
20 governing the terms, conditions, and timing under which the
21 authority shall pay the start-up rent grant to the owner and operator
22 of the collaborative workspace. The grant agreement shall require a
23 collaborative workspace to share data concerning its participation in
24 the program and on collaborative workspace utilization for the
25 purpose of better program planning and the development of new
26 programs to further support the State's economy.

27
28 96. (New section) a. Up to the limits established in this
29 subsection and in accordance with the grant agreement, the authority
30 shall provide start-up rent grants to the owner and operator of a
31 collaborative workspace through a series of scheduled payments as
32 set forth in the grant agreement. The owner and operator of the
33 collaborative workspace shall utilize the grant funding to provide
34 rent-free space to a start-up tenant or member business that agrees to
35 continue renting space in, or access to, the collaborative workspace
36 for the start-up tenant or member business commitment period. The
37 maximum start-up rent grant that the authority may provide to a
38 collaborative workspace for the tenancy of a single start-up tenant or
39 member business shall not exceed \$25,000.

40 b. The authority may provide a start-up rent grant for the
41 payment of rent for space in, or access to, a collaborative workspace
42 for up to six months; provided, however, if a collaborative workspace
43 or start-up tenant or member business satisfies any of the bonuses set
44 forth in paragraphs (1) through (5) of this subsection, then the
45 authority may provide an additional month of rent for each bonus
46 satisfied by the collaborative workspace or start-up tenant or member
47 business. The authority shall award a bonus to the owner and
48 operator of a collaborative workspace if:

1 (1) the collaborative workspace is located in a qualified
2 opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

3 (2) the collaborative workspace is affiliated with a hospital
4 system or a New Jersey university;

5 (3) the collaborative workspace has been open less than 90 days
6 from the date on which the owner and operator of the collaborative
7 workspace applied to the authority to participate in the program and
8 the collaborative workspace is not in the same location as an existing
9 facility;

10 (4) the start-up tenant or member business for which the start-up
11 rent grant is paid is certified by the State as a "minority business" or
12 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
13 et seq.); or

14 (5) the start-up tenant or member business for which the start-up
15 rent grant is paid is the first presence of a foreign company entering
16 into the United States.

17 c. (1) The owner and operator of a collaborative workspace
18 shall annually certify to the authority, under the penalty of perjury,
19 that it is in compliance with the grant agreement.

20 (2) In addition to the certification required pursuant to paragraph
21 (1) of this subsection, the authority shall conduct an annual
22 inspection and review of the collaborative workspace and may
23 request documentation evidencing that the collaborative workspace
24 utilized the start-up rent grant it received from the authority in
25 accordance with the requirements of the program and the grant
26 agreement.

27 d. (1) If a start-up tenant or member business stops
28 occupying or accessing a collaborative workspace before the end of
29 the start-up tenant or member business commitment period, then the
30 collaborative workspace shall refund to the authority that portion of
31 the start-up rent grant covering any period in which the start-up
32 tenant or member business did not have space in, or access to, the
33 collaborative workspace.

34 (2) If the authority determines that a collaborative workspace is
35 not in compliance with the requirements of the program or of the
36 grant agreement, then the authority shall rescind the business
37 facility's certification as a collaborative workspace and bar the
38 business facility from further participation in the program.

39

40 97. (New section) The authority shall promulgate rules and
41 regulations necessary for the effective implementation of sections 92
42 through 97 of P.L. , c. (C.) (pending before the Legislature
43 as this bill). Notwithstanding any provision of the "Administrative
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
45 the authority may adopt, immediately upon filing with the Office of
46 Administrative Law, such regulations as are necessary to implement
47 the provisions of sections 92 through 97 of P.L. , c. (C.)
48 (pending before the Legislature as this bill), which shall be effective

1 for a period not to exceed 12 months following enactment, and shall
2 thereafter be amended, adopted, or readopted by the authority in
3 accordance with the requirements of the "Administrative Procedure
4 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

5
6 98. (New section) a. The combined value of all tax credits
7 awarded under the "Historic Property Reinvestment Act," sections 1
8 through 8 of P.L. , c. (C.) (pending before the Legislature as
9 this bill), the "Brownfield Redevelopment Incentive Program Act,"
10 sections 9 through 19 of P.L. , c. (C.) (pending before the
11 Legislature as this bill), the "New Jersey Innovation Evergreen Act,"
12 sections 20 through 34 of P.L. , c. (C.) (pending before the
13 Legislature as this bill), the "Food Desert Relief Act," sections 35
14 through 42 of P.L. , c. (C.) (pending before the Legislature
15 as this bill), the "New Jersey Community-Anchored Development
16 Act," sections 43 through 53 of P.L. , c. (C.) (pending before
17 the Legislature as this bill); the "New Jersey Aspire Program Act,"
18 sections 54 through 67 of P.L. , c. (C.) (pending before the
19 Legislature as this bill); and the "Emerge Program Act," sections 68
20 through 81 of P.L. , c. (C.) (pending before the Legislature
21 as this bill) shall not exceed an overall cap of \$11.5 billion over a
22 six-year period, subject to the conditions and limitations set forth in
23 this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for
24 transformative projects approved under the Aspire Program or the
25 Emerge Program.

26 b. (1) The total value of tax credits awarded under any
27 constituent program of the "New Jersey Economic Recovery Act of
28 2020," P.L. , c. (C.) (pending before the Legislature as this
29 bill) shall be subject to the following annual limitations, except as
30 otherwise provided in subsection c. of this section:

31 (a) for tax credits awarded under the "Historic Property
32 Reinvestment Act," sections 1 through 8 of P.L. , c. (C.)
33 (pending before the Legislature as this bill), the total value of tax
34 credits annually awarded during the six-year period shall not exceed
35 \$50 million;

36 (b) for tax credits awarded under the "Brownfield Redevelopment
37 Incentive Program Act," sections 9 through 19 of P.L. , c.
38 (C.) (pending before the Legislature as this bill), the total value
39 of tax credits annually awarded during the six-year period shall not
40 exceed \$50 million;

41 (c) for tax credits awarded under the "New Jersey Innovation
42 Evergreen Act," sections 20 through 34 of P.L. , c. (C.)
43 (pending before the Legislature as this bill), the total value of tax
44 credits annually awarded during the six-year period shall not exceed
45 \$60 million;

46 (d) for tax credits awarded under the "Food Desert Relief Act,"
47 sections 35 through 42 of P.L. , c. (C.) (pending before the

1 Legislature as this bill), the total value of tax credits annually
2 awarded during the six-year period shall not exceed \$40 million;

3 (e) for tax credits awarded under the "New Jersey Community-
4 Anchored Development Act," sections 43 through 53 of P.L. , c.
5 (C.) (pending before the Legislature as this bill), the total value
6 of tax credits annually awarded during the six-year period shall not
7 exceed \$200 million, except that during each of the first three years
8 of the six-year period, the authority shall annually award tax credits
9 valuing no greater than \$130 million for projects located in the 13
10 northern counties of the State, and the authority shall annually award
11 tax credits valuing no greater than \$70 million for projects located in
12 the eight southern counties of the State. If during any of the first
13 three years of the six-year period, the authority awards tax credits in
14 an amount less than the annual limitation for projects located in
15 northern counties or southern counties, as applicable, the
16 uncommitted portion of the annual limitation shall be available to be
17 deployed by the authority in the subsequent year, provided that the
18 uncommitted portion of tax credits shall be awarded for projects
19 located in the applicable geographic area. During each of the final
20 three years of the six-year period, the authority may annually award
21 available tax credits, including the uncommitted portion of the annual
22 limitation for any previous year, without consideration to the county
23 in which the project is located;

24 (f) for tax credits awarded under the "New Jersey Aspire Program
25 Act," sections 54 through 67 of P.L. , c. (C.) (pending before
26 the Legislature as this bill), and the "Emerge Program Act," sections
27 68 through 81 of P.L. , c. (C.) (pending before the Legislature
28 as this bill), not including tax credits awarded for transformative
29 projects, the total value of tax credits annually awarded during the
30 six-year period shall not exceed \$1.1 billion, except that during each
31 of the first three years of the six-year period, the authority shall
32 annually award tax credits valuing no greater than \$715 million for
33 projects located in the northern counties of the State, and the
34 authority shall annually award tax credits valuing no greater than
35 \$385 million for projects located in the southern counties of the State.
36 If during any of the first three years of the six-year period, the
37 authority awards tax credits in an amount less than the annual
38 limitation for projects located in northern counties or southern
39 counties, as applicable, the uncommitted portion of the annual
40 limitation shall be available to be deployed by the authority in the
41 subsequent year, provided that the uncommitted portion of tax credits
42 shall be awarded for projects located in the applicable geographic
43 area. During each of the final three years of the six-year period, the
44 authority may annually award available tax credits, including the
45 uncommitted portion of the annual limitation for any previous year,
46 without consideration to the county in which the project is located;
47 and

1 (g) for tax credits awarded for transformative projects under the
2 "New Jersey Aspire Program Act," sections 54 through 67 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill), and the
4 "Emerge Program Act," sections 68 through 81 of P.L. , c.
5 (C.) (pending before the Legislature as this bill), the total value
6 of tax credits awarded during the six-year period shall not exceed
7 \$2.5 billion. The total value of tax credits awarded for transformative
8 projects in a given year shall not be subject to an annual limitation,
9 except that no more than 10 transformative projects shall be awarded
10 tax credits during the six-year period, and the total value of tax
11 credits awarded to any transformative project shall not exceed \$250
12 million.

13 (2) The authority may in any given year determine that it is in the
14 State's interest to approve an amount of tax credits in excess of the
15 annual limitations set forth in paragraph (1) of this subsection, but in
16 no event more than \$200,000,000 in excess of the annual limitation,
17 upon a determination by the authority board that such increase is
18 warranted based on specific criteria that may include:

19 (i) the increased demand for opportunities to create or retain
20 employment and investment the State as indicated by the volume of
21 project applications and the amount of tax credits being sought by
22 those applications;

23 (ii) the need to protect the State's economic position in the event
24 of an economic downturn;

25 (iii) the quality of project applications and the net economic
26 benefit to the State and municipalities associated with those
27 applications;

28 (iv) opportunities for project applications to strengthen or protect
29 the competitiveness of the state under the prevailing market
30 conditions;

31 (v) enhanced access to employment and investment for
32 underserved populations in distressed municipalities and qualified
33 incentives tracts;

34 (vi) increased investment and employment in high-growth
35 technology sectors and in projects that entail collaboration with
36 education institutions in the State;

37 (vii) increased development proximate to mass transit facilities;

38 (viii) any other factor deemed relevant by the authority.

39 c. In the event that the authority in any year approves projects
40 for tax credits in an amount less than the annual limitations set forth
41 in paragraph (1) of subsection b. of this section, then the
42 uncommitted portion of the annual limitation shall be available to be
43 deployed by the authority in future years for projects; provided
44 however, that in no event shall the aggregate amount of tax credits
45 approved be in excess of the overall cap of \$11.5 billion.

46

47 99. (New section) Sections 99 through 105 of P.L. , c.
48 (C.) (pending before the Legislature as this bill) shall be known

1 and may be cited as the "Economic Development Authority Integrity
2 and Protection Act."

3
4 100. (New section) As used in sections 99 through 105 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill):

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

12 "Fraud" means a deception or misrepresentation made by any
13 person or entity with the knowledge that the deception or
14 misrepresentation could result in some unauthorized benefit to that
15 person or entity or another person or entity, including any act that
16 constitutes fraud under applicable federal or State law.

17 "Economic development investigation" means an investigation of
18 fraud, abuse, or illegal acts perpetrated within economic development
19 incentive programs by applicants for, or recipients of, economic
20 development incentives.

21 "Office of the Economic Development Inspector General" means
22 the Office of the Economic Development Inspector General created
23 by section 102 of P.L. , c. (C.) (pending before the Legislature
24 as this bill).

25
26 101. (New section) a. The New Jersey Economic Development
27 Authority shall employ a Chief Compliance Officer, who shall be
28 appointed by the Chief Executive Officer of the authority to manage
29 the Division of Portfolio Management and Compliance in the
30 authority.

31 b. The Chief Compliance Officer shall:

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

37 (2) conduct, on such periodic basis as determined by the
38 authority, systematic audits of economic development incentive
39 programs for compliance with the laws, regulations, codes, orders,
40 procedures, advisory opinions and rulings concerning those
41 programs;

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

1 (4) prior to the adoption of any rule or regulation by the authority
2 or the board related to the general administration of the programs
3 administered by the authority pursuant to section 6 of P.L. , c.
4 (C.) (pending before the Legislature as this bill), section 19 of
5 P.L. , c. (C.) (pending before the Legislature as this bill),
6 section 29 of P.L. , c. (C.) (pending before the Legislature
7 as this bill), section 34 of P.L. , c. (C.) (pending before the
8 Legislature as this bill), section 41 of P.L. , c. (C.) (pending
9 before the Legislature as this bill), section 67 of P.L. , c. (C.)
10 (pending before the Legislature as this bill), section 79 of P.L. , c.
11 (C.) (pending before the Legislature as this bill), section 88 of
12 P.L. , c. (C.) (pending before the Legislature as this bill),
13 and section 97 of P.L. , c. (C.) (pending before the Legislature
14 as this bill), or any other regulation specifically related to the
15 recapture of economic development incentive award values, review
16 and certify that the provisions of program rules or regulations provide
17 the authority with adequate procedures to pursue the recapture of the
18 value of an economic development incentive in the case of substantial
19 noncompliance, fraud, or abuse by the economic development
20 incentive recipient, and that program rules and regulations are
21 sufficient to ensure against economic development incentive fraud,
22 waste, and abuse; and

23 (5) refer, to the Economic Development Inspector General and to
24 the Attorney General, information on suspected fraud or abuse
25 identified by the Division of Portfolio Management and Compliance.

26 c. The Chief Compliance Officer, in consultation with the
27 Department of Labor and Workforce Development and the
28 Department of the Treasury, shall:

29 Develop, adopt, and implement a corrective action plan, within
30 one year of the effective date of sections 99 through 105 of P.L. ,
31 c. (C.) (pending before the Legislature as this bill) and within
32 six months of receiving notice of any program deficiency issued by
33 the Economic Development Inspector General, that is designed to
34 enable the authority to properly manage the economic development
35 incentive programs administered by the authority, and adopt rules
36 and regulations concerning the administration and enforcement of the
37 Division of Portfolio Management and Compliance's duties in a
38 manner that is most compatible with ensuring against fraud and abuse
39 in the State's economic development incentive programs.

40

41 102. (New section) a. There is established, in the authority, the
42 Office of the Economic Development Inspector General, which shall
43 operate independent of the oversight or management of the Chief
44 Executive Officer of the authority. The Office of the Economic
45 Development Inspector General shall operate under the Economic
46 Development Inspector General, who shall be a retired member of
47 the Judicial Branch of the State, to be appointed by the Governor with
48 the advice and consent of the Senate for a term of four years. The

1 Economic Development Inspector General shall direct the work of
2 the Office of the Economic Development Inspector General and have
3 the following general functions, duties, powers, and responsibilities:

4 (1) to appoint such deputies, directors, assistants, and other
5 officers and employees as may be needed for the Office of the
6 Economic Development Inspector General to meet its
7 responsibilities, and to prescribe their duties and fix their
8 compensation within the amounts appropriated therefor;

9 (2) to conduct and supervise State government activities relating
10 to State economic development incentive integrity, fraud, and abuse;

11 (3) to call upon any department, office, division, or agency of
12 State government to provide such information, resources, or other
13 assistance as the Economic Development Inspector General deems
14 necessary to discharge the duties and functions and to fulfill the
15 responsibilities of the Economic Development Inspector General
16 under sections 99 through 105 of P.L. , c. (C.) (pending
17 before the Legislature as this bill). Each department, office, division,
18 and agency of this State shall cooperate with the Economic
19 Development Inspector General and furnish the Office of the
20 Economic Development Inspector General with the assistance
21 necessary to accomplish the purposes of sections 99 through 105 of
22 P.L. , c. (C.) (pending before the Legislature as this bill);

23 (4) to coordinate activities to prevent, detect, and investigate
24 economic development incentive fraud and abuse among the
25 following: the authority, State and local government officials, and all
26 economic development incentive applicants and recipients;

27 (5) to recommend and implement policies relating to economic
28 development incentive integrity, fraud, and abuse, and monitor the
29 implementation of any recommendations made by the Office of the
30 Economic Development Inspector General to the authority for the
31 administration of economic development incentives;

32 (6) to perform any other functions that are necessary or
33 appropriate in furtherance of the mission of the Office of the
34 Economic Development Inspector General; and

35 (7) to direct an economic development incentive applicant or
36 recipient to cooperate with the Office of the Economic Development
37 Inspector General and provide such information or assistance as shall
38 be reasonably required by the Office of the Economic Development
39 Inspector General.

40 b. As it relates to ensuring compliance with applicable economic
41 development incentive standards and requirements, identifying and
42 reducing fraud and abuse, and improving the efficiency and
43 effectiveness of economic development incentives, the functions,
44 duties, powers, and responsibilities of the Economic Development
45 Inspector General shall include, but not be limited to, the following:

46 (1) to establish, in consultation with the authority and the
47 Attorney General, guidelines under which the withholding of
48 payments or exclusion from economic development incentive

- 1 programs shall be imposed on an economic development incentive
2 applicant or recipient;
- 3 (2) to review the utilization of economic development incentives
4 to ensure that economic development incentive funds are
5 appropriately spent to meet the goals and purposes of an individual
6 economic development incentive program;
- 7 (3) to review and audit contracts, reports, documentation, claims,
8 and all awards of economic development incentives to determine
9 compliance with applicable laws, regulations, guidelines, and
10 standards, and enhance program integrity;
- 11 (4) to consult with the authority to optimize the economic
12 development incentive management information system in
13 furtherance of the mission of the Office of the Economic
14 Development Inspector General. The authority shall consult with the
15 Economic Development Inspector General on matters that concern
16 the operation, upgrade, and implementation of the economic
17 development incentive management information system;
- 18 (5) to coordinate the implementation of information technology
19 relating to economic development incentive integrity, fraud, and
20 abuse;
- 21 (6) to conduct educational programs for economic development
22 incentive State and local government officials and economic
23 development incentive recipients designed to limit economic
24 development incentive fraud and abuse; and
- 25 (7) to provide notice to the Chief Compliance Officer, appointed
26 pursuant to section 101 of P.L. , c. (C.) (pending before the
27 Legislature as this bill) if the Economic Development Inspector
28 General determines that a program deficiency exists in an economic
29 development incentive program administered by the authority and to
30 provide notice to the Chief Executive Officer of the Authority of
31 pending investigations if the Economic Development Inspector
32 General determines that such disclosure is consistent with the public
33 interest in maintaining the integrity of an economic development
34 incentive program administered by the authority or to abate the
35 continuation of fraud or abuse.
- 36 c. As it relates to investigating allegations of economic
37 development incentive fraud and abuse and enforcing applicable
38 laws, rules, regulations, and standards, the functions, duties, powers,
39 and responsibilities of the Economic Development Inspector General
40 shall include, but not be limited to, the following:
- 41 (1) to conduct economic development investigations concerning
42 any acts of misconduct within economic development incentive
43 programs;
- 44 (2) to provide information concerning the economic development
45 investigations of the Office of the Economic Development Inspector
46 General to the Attorney General, law enforcement authorities, and
47 any prosecutor of competent jurisdiction, and endeavor to develop
48 these economic development investigations in a manner that

1 expedites and facilitates criminal prosecutions and the recovery of
2 improperly expended economic development incentives, including
3 the maintenance of detailed records for cases processed by the
4 Economic Development Inspector General. The records shall
5 include: information on the total number of cases processed and, for
6 each case, the agency and division to which the case is referred for
7 an economic development investigation; the date on which the case
8 is referred; and the nature of the suspected fraud or abuse.

9 (3) to provide information and evidence relating to suspected
10 criminal acts that the Economic Development Inspector General may
11 obtain in carrying out its duties to law enforcement officials when
12 appropriate, and to provide such information to the Attorney General
13 and county prosecutors in order to facilitate criminal economic
14 development investigations and prosecutions;

15 (4) to refer complaints alleging criminal conduct to the Attorney
16 General or other appropriate prosecutorial authority.;

17 The Economic Development Inspector General shall maintain a
18 record of all matters referred to the Attorney General and shall be
19 authorized to disclose information received, as appropriate and as
20 may be necessary to resolve the matter referred, to the extent
21 consistent with the public interest in disclosure, the need for
22 protecting the confidentiality of complainants and informants, and
23 preserving the confidentiality of ongoing criminal economic
24 development investigations. Notwithstanding any referral made
25 pursuant to this subsection, the Economic Development Inspector
26 General may pursue any administrative or civil remedy under the law.
27 A referral by the inspector general to the Attorney General or a
28 prosecutorial authority shall in no way preclude the inspector general
29 from performing its own separate, independent investigation; and

30 (5) in furtherance of an economic development investigation, to
31 compel at a specific time and place, by subpoena, the appearance and
32 sworn testimony of any person whom the Economic Development
33 Inspector General reasonably believes may be able to give
34 information relating to a matter subject to an economic development
35 investigation:

36 (a) for this purpose, the Economic Development Inspector
37 General is empowered to administer oaths and examine witnesses
38 under oath, and compel any person to produce at a specific time and
39 place, by subpoena, any documents, books, records, papers, objects,
40 or other evidence that the Economic Development Inspector General
41 reasonably believes may relate to a matter subject to an economic
42 development investigation; and

43 (b) if any person to whom a subpoena is issued fails to appear or,
44 having appeared, refuses to give testimony, or fails to produce the
45 books, papers, or other documents required, the Economic
46 Development Inspector General may apply to the Superior Court and
47 the court may order the person to appear and give testimony or
48 produce the books, papers, or other documents, as applicable. Any

1 person failing to obey that order may be held by the court in
2 contempt;

3 (6) subject to applicable State law, to have full and unrestricted
4 access to all records, reports, audits, reviews, documents, papers,
5 data, recommendations, or other material available to the authority
6 and other State and local government agencies with respect to which
7 the Office of the Economic Development Inspector General has
8 responsibilities under sections 102 through 105 of P.L. , c.
9 (C.) (pending before the Legislature as this bill);

10 (7) to solicit, receive, and investigate complaints related to
11 economic development incentive integrity, fraud, and abuse; and

12 (8) to prepare cases, provide expert testimony, and support
13 administrative hearings and other legal proceedings.

14 d. As it relates to recovering improperly obtained economic
15 development incentives, imposing administrative sanctions,
16 damages, or penalties, and negotiating settlements to assure that all
17 governmental resources have been properly expended, the functions,
18 duties, powers, and responsibilities of the Economic Development
19 Inspector General shall include, but not be limited to, the following:

20 (1) to pursue civil and administrative enforcement actions against
21 those who engage in fraud, abuse, or illegal acts perpetrated under
22 economic development incentive programs. These civil and
23 administrative enforcement actions shall include the imposition of
24 administrative sanctions, penalties, suspension of fraudulent or
25 illegal awards, and actions for civil recovery and seizure of property
26 or other assets connected with such economic incentive awards;

27 (2) to initiate civil suits consistent with the provisions of sections
28 99 through 105 of P.L. , c. (C.) (pending before the Legislature
29 as this bill), maintain actions for civil recovery on behalf of the State,
30 and enter into civil settlements;

31 (3) to require that the authority withhold payments to an
32 economic development incentive applicant or recipient if the
33 applicant or recipient unreasonably fails to produce complete and
34 accurate records related to an economic development investigation
35 that is initiated by the Office of the Economic Development Inspector
36 General with reasonable cause; and

37 (4) to monitor and pursue the recoupment of economic
38 development incentive awards or portions thereof, damages,
39 penalties, and sanctions.

40

41 103. (New section) a. The Economic Development Inspector
42 General is authorized to request, and shall be entitled to receive, such
43 information, assistance, and cooperation from any State or local
44 government department, board, bureau, commission, or other agency
45 or unit thereof, as may be necessary to carry out the duties and
46 responsibilities of the Office of the Economic Development Inspector
47 General pursuant to sections 102 through 105 of P.L. , c. (C.)
48 (pending before the Legislature as this bill).

1 b. Upon the request of a prosecutor of competent jurisdiction, an
2 office, department, or any other State or local government entity, the
3 Economic Development Inspector General shall provide information,
4 data, assistance, staff, and other resources as shall be necessary,
5 appropriate and available to aid and facilitate the economic
6 development investigation and prosecution of economic
7 development incentive fraud.

8
9 104. (New section) The Economic Development Inspector
10 General shall report annually to the Governor, to the Legislature,
11 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the
12 Attorney General, the activities of the Office of the Economic
13 Development Inspector General, as well as recommendations, if any,
14 for legislation to provide for the management of the State's economic
15 development incentive programs.

16
17 105. (New section) The Economic Development Inspector
18 General, pursuant to the "Administrative Procedure Act," P.L.1968,
19 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations, in
20 consultation with the authority, the Department of Labor and
21 Workforce Development, and the Department of the Treasury,
22 concerning the administration and enforcement of the Office of the
23 Economic Development Inspector General's duties pursuant to
24 sections 102 through 105 of P.L. , c. (C.) (pending before
25 the Legislature as this bill) in a manner that is most compatible with
26 ensuring against fraud and abuse in the State's economic
27 development incentive programs.

28
29 106. (New section) a. For privilege periods ending in 2020, 2021,
30 and 2022, a taxpayer, upon approval of an application to the
31 authority, shall be allowed a credit against the tax imposed pursuant
32 to section 5 of P.L.1945, c.162 (C.54:10A-5) in the amount of
33 \$10,000 for each qualifying new hire involved in the manufacture of
34 personal protective equipment in a qualified facility in which the
35 taxpayer made a capital investment during the privilege period.

36 b. The minimum capital investment in a qualified facility
37 required to be eligible for a credit under this section shall be as
38 follows:

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

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

1 (3) for the new construction of a premises in Atlantic County,
2 Burlington County, Cape May County, Cumberland County,
3 Gloucester County, Ocean County, or Salem County, a minimum
4 investment of \$100 per square foot of gross leasable area; or
5 (4) for the new construction of a premises in counties in the State
6 not listed in paragraph (3) of this subsection, a minimum investment
7 of \$120 per square foot of gross leasable area.
8 c. The minimum number of new or retained qualifying full-time
9 jobs required to be eligible for a credit under this section shall be as
10 follows:
11 (1) for a qualified facility in Atlantic County, Burlington County,
12 Cape May County, Cumberland County, Gloucester County, Ocean
13 County, or Salem County, a minimum of five new or 15 retained
14 qualifying full-time jobs; or
15 (2) for a qualified facility in counties in the State not listed in
16 paragraph (1) of this subsection, a minimum of ten new or 25 retained
17 qualifying full-time jobs.
18 d. In addition to the amount of credit allowed pursuant to
19 subsection a. of this section, a taxpayer shall be allowed the following
20 tax credits for privilege periods ending in 2020, 2021, and 2022:
21 (1) \$1,000 per qualifying full-time job in the privilege period at a
22 qualified facility that is a building vacant for not less than seven years
23 in need of rehabilitation with a minimum of 250,000 square feet;
24 (2) \$1,500 per qualifying full-time job in the privilege period at a
25 qualified facility in which the manufacturing of personal protective
26 equipment is part of a research collaboration between the taxpayer
27 and a college or university located within the State; and
28 (3) \$1,000 per qualifying full-time job in the privilege period at a
29 qualified facility in which the taxpayer has established an
30 apprenticeship program or pre-apprenticeship program with a
31 technical school or county college located within the State.
32 e. The total credit allowed to a taxpayer pursuant to this section
33 during the privilege period shall not exceed \$500,000. A taxpayer
34 shall not be eligible for a tax credit under this section for the same
35 qualifying new hire for which the taxpayer is receiving a tax credit
36 incentive award under the Emerge Program established by sections
37 68 through 81 of P.L. , c. (C.) (pending before the Legislature
38 as this bill).
39 f. Notwithstanding the minimum tax schedule imposed pursuant
40 to subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5), if the
41 amount of the tax credit allowed exceeds the amount of corporation
42 business tax otherwise due pursuant to section 5 of P.L.1945, c.162
43 (C.54:10A-5), the amount of excess shall be treated as a refundable
44 overpayment except that interest shall not be paid pursuant to section
45 7 of P.L.1992, c.175 (C.54:49-15.1) on the amount of overpayment
46 attributable to this credit amount. The director shall determine the
47 order of priority of the application of the credit allowed pursuant to
48 this section and any other credits allowed by law.

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

8 h. An application for the tax credit shall be submitted to the
9 authority in a form and manner prescribed by the chief executive
10 officer of the authority. As a condition of receiving tax credits under
11 this section, an applicant shall be required to commit to employ
12 qualifying new hires for which tax credits are awarded under this
13 section for a period of five years.

14 i. Notwithstanding any provision of the “Administrative
15 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
16 the director chief executive officer of the authority is authorized to
17 adopt immediately upon filing with the Office of Administrative Law
18 such rules and regulations shall be effective for a period not to exceed
19 360 days following the date of filing and may thereafter be amended,
20 adopted, or readopted by the chief executive officer of the authority
21 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
22 et seq.). The chief executive officer of the authority shall consult
23 with the Commissioner of Health related to any specification
24 requirements for what manufactured products are to qualify as
25 personal protective equipment pursuant to this section.

26 j. As used in this section:

27 “Authority” means the New Jersey Economic Development
28 Authority established pursuant to section 4 of P.L.1974, c.80
29 (C.34:1B-4).

30 “Director” means Director of the Division of Taxation in the
31 Department of the Treasury;

32 “Personal protective equipment” means coveralls, face shields,
33 gloves, gowns, masks, respirators, safeguard equipment, and other
34 equipment designed to protect the wearer from the spread of infection
35 or illness as may be modified from time to time by the board of the
36 authority.

37 “Qualified facility” means a facility that is:

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

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

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

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

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

“Qualifying full-time job” means a full-time position in a business in this State which the business has filled with a full-time employee for the manufacturing of personal protective equipment in this State. The employee shall be employed for at least 35 hours a week and shall be paid employee wages at a rate of not less than \$15 per hour, or render any other standard of service generally accepted by custom or practice as full-time employment, whose wages are subject to withholding as provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of not less than \$15 per hour. “Qualifying new hire” shall not include any person who works as an independent contractor or on a consulting basis for the business. “Qualifying new or retained job” includes only a position for which the taxpayer provides employee health benefits under a health benefits plan authorized pursuant to State or federal law.

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

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

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

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

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

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

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

1 (1) for a qualified facility in Atlantic County, Burlington County,
2 Cape May County, Cumberland County, Gloucester County, Ocean
3 County, or Salem County, a minimum of five new or 15 retained
4 qualifying full-time jobs; and

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

8 d. In addition to the amount of credit allowed pursuant to
9 subsection a. of this section, a taxpayer shall be allowed the following
10 tax credits for taxable years 2020, 2021, and 2022:

11 (1) \$1,000 per qualifying full-time job in a taxable year at a
12 qualified facility that is a building vacant for not less than seven years
13 in need of rehabilitation with a minimum of 250,000 square feet;

14 (2) \$1,500 per qualifying full-time job in a taxable year at a
15 qualified facility in which the manufacturing of personal protective
16 equipment is part of a research collaboration between the taxpayer
17 and a college or university located within the State; and

18 (3) \$1,000 per qualifying full-time job in a taxable year at a
19 qualified facility in which the taxpayer has established an
20 apprenticeship program or pre-apprenticeship program with a
21 technical school or county college located within the State.

22 e. The total credit allowed to a taxpayer pursuant to this section
23 during the taxable year shall not exceed \$500,000. A taxpayer shall
24 not be eligible for a tax credit under this section for the same
25 qualifying new hire for which the taxpayer is receiving a tax credit
26 incentive award under the Emerge Program established by sections
27 68 through 81 of P.L. , c. (C.) (pending before the Legislature
28 as this bill)

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

35 g. (1) A business entity that is classified as a partnership for
36 federal income tax purposes shall not be allowed a tax credit pursuant
37 to this section directly, but the amount of tax credit of a taxpayer in
38 respect to distributive share of entity income, shall be determined by
39 allocating to the taxpayer that proportion of the tax credit acquired
40 by the entity that is equal to the taxpayer's share, whether or not
41 distributed, of the total distributive income or gain of the entity for
42 its taxable year ending within or with the taxpayer's taxable year.

43 (2) A New Jersey S Corporation shall not be allowed a tax credit
44 pursuant to this section directly, but the amount of the tax credit of a
45 taxpayer in respect of a pro rata share of S Corporation income, shall
46 be determined by allocating to the taxpayer that proportion of the tax
47 credit acquired by the New Jersey S Corporation that is equal to the
48 taxpayer's share, whether or not distributed, of the total pro rata share

- 1 of S Corporation income of the New Jersey S Corporation for its
2 privilege period ending within or with the taxpayer's taxable year.
- 3 h. The combined value of all tax credits approved by the
4 authority and the director pursuant to this section and pursuant to
5 section 1 of P.L. , c. (C.)(pending before the Legislature as
6 this bill) shall not exceed \$10,000,000 in any State fiscal year to
7 apply against the tax imposed pursuant to the "New Jersey Gross
8 Income Tax Act," N.J.S.54A:1-1 et seq., and the tax imposed
9 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
- 10 i. An application for the tax credit shall be submitted to the
11 authority in a form and manner prescribed by the chief executive
12 officer of the authority. As a condition of receiving tax credits under
13 this section, an applicant shall be required to commit to employ
14 qualifying new hires for which tax credits are awarded under this
15 section for a period of five years.
- 16 j. Notwithstanding any provision of the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
18 the chief executive officer of the authority is authorized to adopt
19 immediately upon filing with the Office of Administrative Law such
20 rules and regulations shall be effective for a period not to exceed 360
21 days following the date of filing and may thereafter be amended,
22 adopted, or readopted by the chief executive officer of the authority
23 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
24 et seq.). The chief executive officer of the authority shall consult
25 with the Commissioner of Health related to any specification
26 requirements for what manufactured products are to qualify as
27 personal protective equipment pursuant to this section.
- 28 k. As used in this section:
- 29 "Authority" means the New Jersey Economic Development
30 Authority established pursuant to section 4 of P.L.1974, c.80
31 (C.34:1B-4).
- 32 "Director" means Director of the Division of Taxation in the
33 Department of the Treasury;
- 34 "Personal protective equipment" means coveralls, face shields,
35 gloves, gowns, masks, respirators, safeguard equipment, and other
36 equipment designed to protect the wearer from the spread of infection
37 or illness as may be modified from time to time by the board of the
38 authority.
- 39 "Qualified facility" means a facility that is:
- 40 (1) located in a redevelopment area or rehabilitation area as
41 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);
- 42 (2) located in a Smart Growth Area as identified by the Office of
43 Planning Advocacy;
- 44 (3) a facility in which the manufacturing of personal protective
45 equipment is part of a research collaboration between the taxpayer a
46 college or university located within the State;

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

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

6 "Qualifying full-time job" means a full-time employee hired by
7 the taxpayer during the privilege period for the manufacturing of
8 personal protective equipment in this State. The person hired shall
9 be employed for at least 35 hours a week and shall be paid employee
10 wages at a rate of not less than \$15 per hour, or render any other
11 standard of service generally accepted by custom or practice as full-
12 time employment, whose wages are subject to withholding as
13 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
14 et seq. and is paid employee wages at a rate of not less than \$15 per
15 hour. "Qualifying new hire" shall not include any person who works
16 as an independent contractor or on a consulting basis for the business.
17 "Qualifying new or retained job" includes only a position for which
18 the taxpayer provides employee health benefits under a health
19 benefits plan authorized pursuant to State or federal law.
20

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

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

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

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

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

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

38 b. (1) A business shall submit an application for tax credits prior
39 to July 1, 2019. The authority shall not approve an application for
40 tax credits unless the application was submitted prior to July 1, 2019.

41 (2) (a) A business shall submit its documentation indicating that it
42 has met the capital investment and employment requirements and all
43 conditions of approvals specified in the incentive agreement for
44 certification of its tax credit amount, to the authority's satisfaction,
45 within three years following the date of approval of its application by
46 the authority. The authority shall have the discretion to grant two
47 six-month extensions of this deadline. If the authority accepts the
48 documentation, the authority shall request that the Division of

1 Taxation in the Department of the Treasury issue a tax credit based
2 on the approved documentation to be used by the business during the
3 eligibility period. Except as provided in subparagraphs (b) and (c) of
4 this paragraph, in no event shall the incentive effective date occur
5 later than four years following the date of approval of an application
6 by the authority.

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

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

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

29 (4) A business seeking a credit for a mega project shall apply for
30 the credit within four years after the effective date of the "New Jersey
31 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
32 489p et al.).

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

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

41 The credit amount may be taken by the tax certificate holder for
42 the tax period for which it was issued or may be carried forward for
43 use by the tax certificate holder in any of the next 20 successive tax
44 periods, and shall expire thereafter. The tax certificate holder may
45 transfer the tax credit amount on or after the date of issuance or at
46 any time within three years of the date of issuance for use by the
47 transferee in the tax period for which it was issued or in any of the
48 next 20 successive tax periods. Notwithstanding the foregoing, no

1 more than the amount of tax credits equal to the total credit amount
2 divided by the duration of the eligibility period in years may be taken
3 in any tax period.

4 A business may elect to suspend its obligations for the 2020 tax
5 period and, if the public health emergency or state of emergency
6 declared due to the COVID-19 pandemic extends past March 2021,
7 the 2021 tax period, provided that the business shall make such
8 election in writing to the authority before the date the annual report
9 is due and such suspension shall extend the term of the eligibility
10 period by a corresponding amount of time. The authority shall amend
11 the incentive agreement, and the business shall execute the amended
12 incentive agreement within the time period provided by the authority.
13 The amended incentive agreement shall provide that the failure to
14 submit the annual report due to the suspension shall not be a
15 forfeiture or an uncertified tax period.

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

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

28 (4) In order to respond to the profoundly negative impact of the
29 COVID-19 pandemic on the State's economy and finances, the
30 authority may request a tax certificate holder, at the tax certificate
31 holder's discretion, to defer the application of a credit amount
32 allowed pursuant to this section to a later tax period. Upon request,
33 the authority and the tax certificate holder shall negotiate the terms
34 of the deferral, which shall hold the certificate holder harmless,
35 which will be made in the incentive agreement or as an addendum to
36 the incentive agreement.

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

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

11 (3) (a) If the qualified business facility is sold by the owner in
12 whole or in part during the eligibility period, the new owner shall not
13 acquire the capital investment of the seller and the seller shall forfeit
14 all credits for the tax period in which the sale occurs and all
15 subsequent tax periods, provided however that any credits of the
16 business shall remain unaffected.

17 (b) In connection with a regional distribution facility of
18 foodstuffs, the business entity or entities which own or lease the
19 facility shall qualify as a business regardless of: (i) the type of the
20 business entity or entities which own or lease the facility; (ii) the
21 ownership or leasing of the facility by more than one business entity;
22 or (iii) the ownership of the business entity or entities which own or
23 lease the facility. The ownership or leasing, whether by members,
24 shareholders, partners, or other owners of the business entity or
25 entities, shall be treated as ownership or leasing by affiliates. The
26 members, shareholders, partners, or other ownership or leasing
27 participants and others that are tenants in the facility shall be treated
28 as affiliates for the purpose of counting the full-time employees and
29 capital investments in the facility. The business entity or entities may
30 distribute credits to members, shareholders, partners, or other
31 ownership or leasing participants in accordance with their respective
32 interests. If the business entity or entities or their members,
33 shareholders, partners, or other ownership or leasing participants
34 lease space in the facility to members, shareholders, partners, or other
35 ownership or leasing participants or others as tenants in the facility,
36 the leases shall be treated as a lease to an affiliate, and the business
37 entity or entities shall not be subject to forfeiture of the credits. For
38 the purposes of this section, leasing shall include subleasing and
39 tenants shall include subtenants.

40 (4) (a) For a project located within a Garden State Growth Zone,
41 if, in any tax period, the number of full-time employees employed by
42 the business at the qualified business facility located within a
43 qualified incentive area increases above the number of full-time
44 employees specified in the incentive agreement, then the business
45 shall be entitled to an increased base credit amount for that tax period
46 and each subsequent tax period, for each additional full-time
47 employee added above the number of full-time employees specified
48 in the incentive agreement, until the first tax period for which

1 documentation demonstrating a reduction of the number of full-time
2 employees employed by the business at the qualified business
3 facility, at which time the tax credit amount will be adjusted
4 accordingly pursuant to this section.

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

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

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

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

43 f. A business which has already applied for a tax credit incentive
44 award prior to the effective date of the "New Jersey Economic
45 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
46 but who has not yet been approved for the tax credits, or has not
47 executed an agreement with the authority, may proceed under that
48 application or seek to amend the application or reapply for a tax credit

1 incentive award for the same project or any part thereof for the
2 purpose of availing itself of any more favorable provisions of the
3 program.

4 g. A business that has entered into an incentive agreement may
5 request before December 31, 2022 to terminate the incentive
6 agreement due to the COVID-19 public health emergency; provided
7 that the business shall submit a certification from the business's chief
8 executive officer or equivalent officer stating that the termination is
9 due to the public health emergency and describing the impact of the
10 public health emergency on the business. All credits for the tax
11 period in which the termination occurs and all subsequent tax periods
12 shall be forfeited, provided however that any credits of the business
13 shall remain unaffected.

14 h. A business that has entered into an incentive agreement may
15 request to reduce the number of new or retained full-time jobs
16 specified in the incentive agreement based on a certification of the
17 business of the eligible positions at the qualified business facility
18 commencing with the 2020 tax period and each subsequent tax period
19 remaining in the eligibility period, provided that the business
20 maintains the minimum number of new or retained full-time jobs
21 required to be eligible pursuant to subsection c. of section 3 of
22 P.L.2011, c.149 (C.34:1B-244). The reduction in employment shall
23 first apply to the number of new full-time employees, and then shall
24 apply to the number of retained full-time employees.

25 The authority shall calculate a new tax credit total amount for the
26 2020 tax period and the remainder of the eligibility period based on
27 the reduced employment and shall amend the incentive agreement to
28 reflect the recalculated award amount. In no event shall the
29 modification result in an increase in employment or tax credit
30 amount.

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

32

33 109. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to
34 read as follows:

35 6. a. (1) A business, upon application to and approval from the
36 authority, shall be **【allowed】** awarded a credit of 100 percent of its
37 capital investment, made after the effective date of P.L.2010, c.57
38 (C.48:3-87.1 et al.) but prior to its submission of documentation
39 pursuant to subsection c. of this section, in a qualified wind energy
40 facility located **【within an eligible wind energy zone】** in the State,
41 pursuant to the restrictions and requirements of this section. The
42 award of a tax credit pursuant to this section shall be structured so
43 that the authority shall make up to four awards, each equaling 25
44 percent of the total value of the tax credit, to a qualified business over
45 four privilege periods or taxable years in which the business meets
46 the requirements for the minimum number of new, full-time
47 employees. Otherwise eligible businesses with between 150 and 300
48 new, full-time jobs may receive an award based on a prorated formula

1 developed by the authority. To be eligible for any tax credits
2 authorized under this section, a business shall demonstrate to the
3 authority, at the time of application, that the State's financial support
4 of the proposed capital investment in a qualified wind energy facility
5 will yield a net positive benefit to the State. The value of all credits
6 approved by the authority pursuant to this section may be up to
7 \$100,000,000, except as may be increased by the authority if the chief
8 executive officer of the authority judges certain qualified offshore
9 wind projects to be meritorious. Credits provided pursuant to this
10 section shall not be applicable to the cap on the credits provided in
11 section 3 of P.L.2007, c.346 (C.34:1B-209).

12 (2) (a) A business, other than a tenant eligible pursuant to
13 subparagraph (b) of this paragraph, shall make or acquire capital
14 investments totaling not less than \$50,000,000 in a qualified wind
15 energy facility, at which the business, including tenants at the
16 qualified wind energy facility, shall employ **【at least 300】** the
17 minimum number of new, full-time employees, to be eligible for a
18 credit under this section. A business that acquires a qualified wind
19 energy facility after the effective date of P.L.2010, c.57 (C.48:3-87.1
20 et al.) shall also be deemed to have acquired the capital investment
21 made or acquired by the seller.

22 (b) A business that is a tenant in the qualified wind energy
23 facility, the owner of which has made or acquired capital investments
24 in the facility totaling more than \$50,000,000, shall occupy a leased
25 area of the qualified wind energy facility that represents at least
26 \$17,500,000 of the capital investment in the qualified wind energy
27 facility at which **【at least 300】** the minimum number of new, full-
28 time employees in the aggregate are employed, to be eligible for a
29 credit under this section. The amount of capital investment in a
30 facility that a leased area represents shall be equal to that percentage
31 of the owner's total capital investment in the facility that the
32 percentage of net leasable area leased by the tenant is of the total net
33 leasable area of the qualified business facility. Capital investments
34 made by a tenant shall be deemed to be included in the calculation of
35 the capital investment made or acquired by the owner, but only to the
36 extent necessary to meet the owner's minimum capital investment of
37 \$50,000,000. Capital investments made by a tenant and not allocated
38 to meet the owner's minimum capital investment threshold of
39 \$50,000,000 shall be added to the amount of capital investment
40 represented by the tenant's leased area in the qualified wind energy
41 facility.

42 (c) The calculation of the number of new, full-time employees
43 required pursuant to subparagraphs (a) and (b) of this paragraph may
44 include the number of new, full-time positions resulting from an
45 equipment supply coordination agreement with equipment
46 manufacturers, suppliers, installers and operators associated with the
47 supply chain required to support the qualified wind energy facility.

1 For the purposes of this paragraph, "full time employee" shall not
2 include an employee who is a resident of another state and whose
3 income is not subject to the "New Jersey Gross Income Tax Act,"
4 N.J.S.54A:1-1 et seq., unless that state has entered into a reciprocity
5 agreement with the State of New Jersey **【**, provided that any
6 employee whose work is provided pursuant to a collective bargaining
7 agreement with a business in the wind energy zone may be included**】**.

8 (3) A business shall not be **【allowed】** awarded a tax credit
9 pursuant to this section if the business receives a business
10 employment incentive grant pursuant to the "Business Employment
11 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating
12 to the same capital and employees that qualify the business for this
13 credit, or if the business receives assistance pursuant to the "Business
14 Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-
15 112 et seq.). A business that is **【allowed】** awarded a tax credit under
16 this section shall not be eligible for incentives authorized pursuant to
17 the "Municipal Rehabilitation and Economic Recovery Act,"
18 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

22 b. A business shall apply for the credit by July 1, **【2024】** 2025,
23 and a business shall submit its documentation for approval of its
24 credit amount by July 1, **【2027】** 2028.

25 c. The credit **【allowed】** awarded pursuant to this section shall
26 be administered in accordance with the provisions of subsection c. of
27 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
28 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to
29 "qualified business facility" shall be deemed to refer to "qualified
30 wind energy facility," as that term is defined in subsection f. of this
31 section.

32 d. The amount of the credit **【allowed】** awarded pursuant to this
33 section shall, except as otherwise provided, be equal to the capital
34 investment made by the business, or the capital investment
35 represented by the business's leased area, and shall be taken over a
36 **【10-year】** five-year period, at the rate of **【one-tenth】** one-fifth of the
37 total amount of the business's credit for each tax accounting or
38 privilege period of the business, beginning with the **【tax period】**
39 privilege period or taxable year in which the business is first
40 approved by the authority as having met the investment capital and
41 employment qualifications, subject to any disqualification as
42 determined by annual review by the authority. In conducting its
43 annual review, the authority may require a business to submit any
44 information determined by the authority to be necessary and relevant
45 to its review. The credit amount for any **【tax period】** privilege period
46 or taxable year ending after the date 18 years after the effective date
47 of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the

1 documentation of a business's credit amount remains unapproved
2 shall be forfeited, although credit amounts for the remainder of the
3 years of the **【10-year】** five-year credit period shall remain available.

4 The amount of the credit **【allowed】** awarded for a **【tax period】**
5 privilege period or taxable year to a business that is a tenant in a
6 qualified wind energy facility shall not exceed the business's total
7 lease payments for occupancy of the qualified wind energy facility
8 for the **【tax period】** privilege period or taxable year.

9 e. The authority shall adopt rules and regulations pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.) as are necessary to implement this section, including, but not
12 limited to: examples of and the determination of capital investment;
13 the nature of businesses and employment positions constituting and
14 participating in an equipment supply coordination agreement; a
15 determination of the types of businesses that may be eligible and
16 expenses that may constitute capital improvements; the promulgation
17 of procedures and forms necessary to apply for a credit; and
18 provisions for applicants to be charged an initial application fee, and
19 ongoing service fees, to cover the administrative costs related to the
20 credit.

21 The rules and regulations established by the authority pursuant to
22 this subsection shall be effective immediately upon filing with the
23 Office of Administrative Law and shall be effective for a period not
24 to exceed 12 months and may, thereafter, be amended, adopted or
25 readopted in accordance with the provisions of the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

27 f. As used in this section: the terms "authority," "business," and
28 "capital investment" shall have the same meanings as defined in
29 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346
30 (C.34:1B-208), except that all references therein to "qualified
31 business facility" shall be deemed to refer to "qualified wind energy
32 facility" as defined in this subsection.

33 In addition, as used in this section:

34 "Equipment supply coordination agreement" means an agreement
35 between a business and equipment manufacturer, supplier, installer,
36 and operator that supports a qualified offshore wind project, or other
37 wind energy project as determined by the authority, and that indicates
38 the number of new, full-time jobs to be created by the agreement
39 participants towards the employment requirement as set forth in
40 paragraph (2) of subsection a. of this section.

41 "Minimum number of new, full-time employees" means:

42 (1) for the first award, at least a cumulative 100 new, full-time
43 employees compared to the number of full-time employees at the
44 time of application;

45 (2) for the second award, for a privilege period or taxable year
46 following the first award, at least a cumulative 150 new, full-time
47 employees compared to the number of full-time employees at the
48 time of application;

1 (3) for the third award, for a privilege period or taxable year
2 following the second award, at least a cumulative 200 new, full-time
3 employees compared to the number of full-time employees at the
4 time of application; and

5 (4) for the fourth award, for a privilege period or taxable year
6 following the third award, at least a cumulative 300 new, full-time
7 employees compared to the number of full-time employees at the
8 time of application.

9 "Qualified offshore wind project" shall have the same meaning as
10 provided in section 3 of P.L.1999, c.23 (C.48:3-51).

11 "Qualified wind energy facility" means any building, complex of
12 buildings, or structural components of buildings, including water
13 access infrastructure, and all machinery and equipment used in the
14 manufacturing, assembly, development or administration of
15 component parts that support the development and operation of a
16 qualified offshore wind project, or other wind energy project as
17 determined by the authority **],** and that are located in a wind energy
18 zone**].**

19 **["Wind energy zone" means property located in the South Jersey**
20 **Port District established pursuant to "The South Jersey Port**
21 **Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).]**

22 (cf: P.L.2018, c.17, s.7)

23
24 110. 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 an
29 amount equal to 30 percent of the qualified film production expenses
30 of the taxpayer during a privilege period commencing on or after July
31 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 authorized
35 to do business, in New Jersey, or the qualified film production
36 expenses of the taxpayer during the privilege period exceed
37 \$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 subsection
8 a. of this section to the contrary, the tax credit allowed pursuant to
9 this subsection against the tax imposed pursuant to section 5 of
10 P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35
11 percent of the qualified film production expenses of the taxpayer
12 during a privilege period that are incurred for services performed and
13 tangible personal property purchased through vendors whose primary
14 place of business is located in Atlantic, Burlington, Camden, Cape
15 May, Cumberland, Gloucester, Mercer or Salem County.

16 b. (1) A taxpayer, upon approval of an application to the authority
17 and the director, shall be allowed a credit against the tax imposed
18 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount
19 equal to 20 percent of the qualified digital media content production
20 expenses of the taxpayer during a privilege period commencing on or
21 after July 1, 2018 but before July 1, 2028, provided that:

22 (a) at least \$2,000,000 of the total digital media content
23 production expenses of the taxpayer are incurred for services
24 performed, and goods purchased through vendors authorized to do
25 business, in New Jersey;

26 (b) at least 50 percent of the qualified digital media content
27 production expenses of the taxpayer are for wages and salaries paid
28 to full-time or full-time equivalent employees in New Jersey;

29 (c) the taxpayer submits a tax credit verification report prepared
30 by an independent certified public accountant licensed in this State
31 in accordance with subsection f. of this section; and

32 (d) the taxpayer complies with the withholding requirements
33 provided for payments to loan out companies and independent
34 contractors in accordance with subsection g. of this section.

35 (2) Notwithstanding the provisions of paragraph (1) of subsection
36 b. of this section to the contrary, the tax credit allowed pursuant to
37 this subsection against the tax imposed pursuant to section 5 of
38 P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 25
39 percent of the qualified digital media content production expenses of
40 the taxpayer during a privilege period that are incurred for services
41 performed and tangible personal property purchased through vendors
42 whose primary place of business is located in Atlantic, Burlington,
43 Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem
44 County.

45 c. No tax credit shall be allowed pursuant to this section for any
46 costs or expenses included in the calculation of any other tax credit
47 or exemption granted pursuant to a claim made on a tax return filed
48 with the director, or included in the calculation of an award of

1 business assistance or incentive, for a period of time that coincides
2 with the privilege period for which a tax credit authorized pursuant
3 to this section is allowed. The order of priority in which the tax credit
4 allowed pursuant to this section and any other tax credits allowed by
5 law may be taken shall be as prescribed by the director. The amount
6 of the tax credit applied under this section against the tax imposed
7 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege
8 period, when taken together with any other payments, credits,
9 deductions, and adjustments allowed by law shall not reduce the tax
10 liability of the taxpayer to an amount less than the statutory minimum
11 provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-
12 5). The amount of the tax credit otherwise allowable under this
13 section which cannot be applied for the privilege period due to the
14 limitations of this subsection or under other provisions of P.L.1945,
15 c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to
16 the seven privilege periods following the privilege period for which
17 the tax credit was allowed.

18 d. A taxpayer, with an application for a tax credit provided for
19 in subsection a. or subsection b. of this section, may apply to the
20 authority and the director for a tax credit transfer certificate in lieu
21 of the taxpayer being allowed any amount of the tax credit against
22 the tax liability of the taxpayer. The tax credit transfer certificate,
23 upon receipt thereof by the taxpayer from the authority and the
24 director, may be sold or assigned, in full or in part, to any other
25 taxpayer that may have a tax liability under the "Corporation
26 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
27 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in
28 exchange for private financial assistance to be provided by the
29 purchaser or assignee to the taxpayer that has applied for and been
30 granted the tax credit. The tax credit transfer certificate provided to
31 the taxpayer shall include a statement waiving the taxpayer's right to
32 claim that amount of the tax credit against the tax imposed pursuant
33 to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has
34 elected to sell or assign. The sale or assignment of any amount of a
35 tax credit transfer certificate allowed under this section shall not be
36 exchanged for consideration received by the taxpayer of less than 75
37 percent of the transferred tax credit amount. Any amount of a tax
38 credit transfer certificate used by a purchaser or assignee against a
39 tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) shall be
40 subject to the same limitations and conditions that apply to the use of
41 a tax credit pursuant to subsection c. of this section. Any amount of
42 a tax credit transfer certificate obtained by a purchaser or assignee
43 under subsection a. or subsection b. of this section may be applied
44 against the purchaser's or assignee's tax liability under N.J.S.54A:1-
45 1 et seq. and shall be subject to the same limitations and conditions
46 that apply to the use of a credit pursuant to subsections c. and d. of
47 section 2 of P.L.2018, c.56 (C.54A:4-12b).

1 e. (1) The value of tax credits, including tax credits allowed
2 through the granting of tax credit transfer certificates, approved by
3 the director and the authority pursuant to subsection a. of this section
4 and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
5 12b) to taxpayers, other than New Jersey film partners and New
6 Jersey film-lease partners, shall not exceed a cumulative total of
7 \$100,000,000 in fiscal year 2019 and in each fiscal year thereafter
8 prior to fiscal year 2029 to apply against the tax imposed pursuant to
9 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
10 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
11 et seq. In addition to the \$100,000,000 limitation on the value of tax
12 credits approved by the director for New Jersey film-lease partners
13 and the \$100,000,000 limitation on the value of tax credits approved
14 by the director for other taxpayers imposed by this paragraph, the
15 value of tax credits, including tax credits allowed through the
16 granting of tax credit transfer certificates, approved by the director
17 and the authority pursuant to subsection a. of this section and
18 pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
19 12b) to New Jersey film partners shall not exceed a cumulative total
20 of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter
21 prior to fiscal year 2029 to apply against the tax imposed pursuant to
22 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
23 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
24 et seq. In addition to the \$100,000,000 limitation on the value of tax
25 credits approved by the director for New Jersey film partners and the
26 \$100,000,000 limitation on the value of tax credits approved by the
27 director for other taxpayers imposed by this paragraph, the value of
28 tax credits, including tax credits allowed through the granting of tax
29 credit transfer certificates, approved by the director and the authority
30 pursuant to subsection a. of this section and pursuant to subsection a.
31 of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
32 lease partners shall not exceed a cumulative total of \$100,000,000 in
33 fiscal year 2021 and in each fiscal year thereafter prior to fiscal year
34 2029 to apply against the tax imposed pursuant to section 5 of
35 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
36 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

37 If the cumulative total amount of tax credits, and tax credit transfer
38 certificates, allowed to taxpayers for privilege periods or taxable
39 years commencing during a single fiscal year under subsection a. of
40 this section and subsection a. of section 2 of P.L.2018, c.56
41 (C.54A:4-12b) exceeds the amount of tax credits available in that
42 fiscal year, then taxpayers who have first applied for and have not
43 been allowed a tax credit or tax credit transfer certificate amount for
44 that reason shall be allowed, in the order in which they have
45 submitted an application, the amount of tax credit or tax credit
46 transfer certificate on the first day of the next succeeding fiscal year
47 in which tax credits and tax credit transfer certificates under
48 subsection a. of this section and subsection a. of section 2 of

1 P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of
2 credits available.

3 Notwithstanding any provision of paragraph (1) of this subsection
4 to the contrary, for any fiscal year in which the amount of tax credits
5 approved pursuant to this paragraph is less than the cumulative total
6 amount of tax credits permitted to be approved in that fiscal year, the
7 authority shall certify the amount of the remaining tax credits
8 available for approval in that fiscal year, and shall increase the
9 cumulative total amount of tax credits permitted to be approved in
10 the subsequent fiscal year by the certified amount remaining from the
11 prior fiscal year. The authority shall also certify, for each fiscal year,
12 the amount of tax credits that were previously approved, but that the
13 taxpayer is not able to redeem or transfer to another taxpayer under
14 this section, and shall increase the cumulative total amount of tax
15 credits permitted to be approved in the subsequent fiscal year by the
16 amount of tax credits previously approved, but not subject to
17 redemption or transfer. The combined increase to the cumulative
18 total permitted to be approved in a subsequent fiscal year pursuant to
19 this paragraph shall not exceed \$50,000,000.

20 (2) The value of tax credits, including tax credits allowed through
21 the granting of tax credit transfer certificates, approved by the
22 authority and the director pursuant to subsection b. of this section and
23 pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-
24 12b) shall not exceed a cumulative total of \$10,000,000 in fiscal year
25 2019 and in each fiscal year thereafter prior to fiscal year 2029 to
26 apply against the tax imposed pursuant to section 5 of P.L.1945,
27 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
28 Gross Income Tax Act," N.J.S.54A:1-1 et seq.

29 If the total amount of tax credits and tax credit transfer certificates
30 allowed to taxpayers for privilege periods or taxable years
31 commencing during a single fiscal year under subsection b. of this
32 section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-
33 12.b) exceeds the amount of tax credits available in that year, then
34 taxpayers who have first applied for and have not been allowed a tax
35 credit or tax credit transfer certificate amount for that reason shall be
36 allowed, in the order in which they have submitted an application,
37 the amount of tax credit or tax credit transfer certificate on the first
38 day of the next succeeding fiscal year in which tax credits and tax
39 credit transfer certificates under subsection b. of this section and
40 subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not
41 in excess of the amount of credits available.

42 Notwithstanding any provision of this paragraph to the contrary,
43 for any fiscal year in which the amount of tax credits approved
44 pursuant to this paragraph is less than the cumulative total amount of
45 tax credits permitted to be approved in that fiscal year, the authority
46 shall certify the amount of the remaining tax credits available for
47 approval in that fiscal year, and shall increase the cumulative total
48 amount of tax credits permitted to be approved in the subsequent

1 fiscal year by the certified amount remaining from the prior fiscal
2 year. The authority shall also certify, for each fiscal year, the amount
3 of tax credits that were previously approved, but that the taxpayer is
4 not able to redeem or transfer to another taxpayer under this section,
5 and shall increase the cumulative total amount of tax credits
6 permitted to be approved in the subsequent fiscal year by the amount
7 of tax credits previously approved, but not subject to redemption or
8 transfer.

9 f. A taxpayer shall submit to the authority and the director a
10 report prepared by an independent certified public accountant
11 licensed in this State to verify the taxpayer's tax credit claim
12 following the completion of the production. The report shall be
13 prepared by the independent certified public accountant pursuant to
14 agreed upon procedures prescribed by the authority and the director,
15 and shall include such information and documentation as shall be
16 determined to be necessary by the authority and the director to
17 substantiate the qualified film production expenses or the qualified
18 digital media content production expenses of the taxpayer. A single
19 report with attachments deemed necessary by the authority shall be
20 submitted electronically. Upon receipt of the report, the authority
21 and the director shall review the findings of the independent certified
22 public accountant's report, and shall make a determination as to the
23 qualified film production expenses or the qualified digital media
24 content production expenses of the taxpayer. The determination shall
25 be provided in writing to the taxpayer, and a copy of the written
26 determination shall be included in the filing of a return that includes
27 a claim for a tax credit allowed pursuant to this section.

28 g. A taxpayer shall withhold from each payment to a loan out
29 company or to an independent contractor an amount equal to 6.37
30 percent of the payment otherwise due. The amounts withheld shall
31 be deemed to be withholding of liability pursuant to the "New Jersey
32 Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall
33 be deemed to have the rights, duties, and responsibilities of an
34 employer pursuant to chapter 7 of Title 54A of the New Jersey
35 Statutes. The director shall allocate the amounts withheld for a
36 taxable year to the accounts of the individuals who are employees of
37 a loan out company in proportion to the employee's payment by the
38 loan out company in connection with a trade, profession, or
39 occupation carried on in this State or for the rendition of personal
40 services performed in this State during the taxable year. A loan out
41 company that reports its payments to employees in connection with
42 a trade, profession, or occupation carried on in this State or for the
43 rendition of personal services performed in this State during a taxable
44 year shall be relieved of its duties and responsibilities as an employer
45 pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the
46 taxable year for any payments relating to the payments on which the
47 taxpayer withheld.

48 h. As used in this section:

1 "Authority" means the New Jersey Economic Development
2 Authority.

3 "Business assistance or incentive" means "business assistance or
4 incentive" as that term is defined pursuant to section 1 of P.L.2007,
5 c.101 (C.54:50-39).

6 "Commission" means the Motion Picture and Television
7 Development Commission.

8 "Digital media content" means any data or information that is
9 produced in digital form, including data or information created in
10 analog form but reformatted in digital form, text, graphics,
11 photographs, animation, sound, and video content. "Digital media
12 content" shall not mean content offerings generated by the end user
13 (including postings on electronic bulletin boards and chat rooms);
14 content offerings comprised primarily of local news, events, weather,
15 or local market reports; public service content; electronic commerce
16 platforms (such as retail and wholesale websites); websites or content
17 offerings that contain obscene material as defined pursuant to
18 N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are
19 produced or maintained primarily for private, industrial, corporate,
20 or institutional purposes; or digital media content acquired or
21 licensed by the taxpayer for distribution or incorporation into the
22 taxpayer's digital media content.

23 "Film" means a feature film, a television series, or a television
24 show of 22 minutes or more in length, intended for a national
25 audience, or a television series or a television show of 22 minutes or
26 more in length intended for a national or regional audience,
27 including, but not limited to, a game show, award show, or other gala
28 event filmed and produced at a nonprofit arts and cultural venue
29 receiving State funding. "Film" shall not include a production
30 featuring news, current events, weather, and market reports or public
31 programming, talk show, or sports event, a production that solicits
32 funds, a production containing obscene material as defined under
33 N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for
34 private, industrial, corporate, or institutional purposes, or a reality
35 show, except if the production company of the reality show owns,
36 leases, or otherwise occupies a production facility of no less than
37 20,000 square feet of real property for a minimum term of 24 months,
38 and invests no less than \$3,000,000 in such a facility within a
39 designated enterprise zone established pursuant to the "New Jersey
40 Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.),
41 or a UEZ-impacted business district established pursuant to section
42 3 of P.L.2001, c.347 (C.52:27H-66.2). "Film" shall not include an
43 award show or other gala event that is not filmed and produced at a
44 nonprofit arts and cultural venue receiving State funding.

45 "Full-time or full-time equivalent employee" means an individual
46 employed by the taxpayer for consideration for at least 35 hours a
47 week, or who renders any other standard of service generally
48 accepted by custom or practice as full-time or full-time equivalent

1 employment, whose wages are subject to withholding as provided in
 2 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
 3 who is a partner of a taxpayer, who works for the partnership for at
 4 least 35 hours a week, or who renders any other standard of service
 5 generally accepted by custom or practice as full-time or full-time
 6 equivalent employment, and whose distributive share of income,
 7 gain, 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 or full-time equivalent employee" shall not include
 11 an individual who works as an independent contractor or on a
 12 consulting basis for the taxpayer.

13 "Highly compensated individual" means an individual who
 14 directly or indirectly receives compensation in excess of \$500,000
 15 for the performance of services used directly in a production. An
 16 individual receives compensation indirectly when the taxpayer pays
 17 a loan out company that, in turn, pays the individual for the
 18 performance of services.

19 "Independent contractor" means an individual treated as an
 20 independent contractor for federal and State tax purposes who is
 21 contracted with by the taxpayer for the performance of services used
 22 directly in a production.

23 "Loan out company" means a personal service corporation or other
 24 entity that is contracted with by the taxpayer to provide specified
 25 individual personnel, such as artists, crew, actors, producers, or
 26 directors for the performance of services used directly in a
 27 production. "Loan out company" shall not include entities contracted
 28 with by the taxpayer to provide goods or ancillary contractor services
 29 such as catering, construction, trailers, equipment, or transportation.

30 "New Jersey film partner" means a film production company that
 31 has made a commitment to produce films or commercial audiovisual
 32 products in New Jersey and has developed, purchased, or executed a
 33 10-year contract to lease a production facility of 250,000 square feet
 34 or more as a "transformative project" pursuant to section 65 of P.L. ,
 35 c. (C.) (pending before the Legislature as this bill). No more
 36 than five film production companies may be designated as a New
 37 Jersey film partner.

38 "New Jersey film-lease partner" means a taxpayer, including any
 39 taxpayer that is a member of a combined group under P.L.2018, c.131
 40 (C:54:10A-4.11), that has made a commitment to lease or acquire a
 41 New Jersey production facility with an aggregate square footage of
 42 at least 50,000 square feet, which includes a sound stage and
 43 production support space such as production offices or a backlot, for
 44 a period of five or more successive years and commits to spend, on a
 45 separate-entity basis or in the aggregate with other members of the
 46 taxpayer's combined group, an annual average of \$50,000,000 of
 47 qualified film production expenses over the period of at least five but
 48 not to exceed 10 years. The authority shall be permitted to recapture

1 any credits awarded to a New Jersey film-lease partner if the New
2 Jersey film-lease partner, or any member of the New Jersey film-
3 lease partner's combined group fails to maintain a New Jersey
4 production facility during the period prescribed or if the New Jersey
5 film-lease partner, on a separate-entity basis or in the aggregate with
6 other members of the New Jersey film-lease partner's combined
7 group, fails to spend an annual average of \$50,000,000 of qualified
8 film production expenses over the prescribed period.

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

11 "Post-production costs" means the costs of the phase of production
12 of a film that follows principal photography, in which raw footage is
13 cut and assembled into a finished film with sound synchronization
14 and visual effects.

15 "Pre-production costs" means the costs of the phase of production
16 of a film that precedes principal photography, in which a detailed
17 schedule and budget for the production is prepared, the script and
18 location is finalized, and contracts with vendors are negotiated.

19 "Qualified digital media content production expenses" means an
20 expense incurred in New Jersey for the production of digital media
21 content. "Qualified digital media content production expenses" shall
22 include but not be limited to: wages and salaries of individuals
23 employed in the production of digital media content on which the tax
24 imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
25 et seq. has been paid or is due; and the costs of computer software
26 and hardware, data processing, visualization technologies, sound
27 synchronization, editing, and the rental of facilities and equipment.
28 Payment made to a loan out company or to an independent contractor
29 shall not be deemed a "qualified digital media content production
30 expense" unless the payment is made in connection with a trade,
31 profession, or occupation carried on in this State or for the rendition
32 of personal services performed in this State and the taxpayer has
33 made the withholding required pursuant to subsection g. of this
34 section. "Qualified digital media content production expenses" shall
35 not include expenses incurred in marketing, promotion, or
36 advertising digital media or other costs not directly related to the
37 production of digital media content. Costs related to the acquisition
38 or licensing of digital media content by the taxpayer for distribution
39 or incorporation into the taxpayer's digital media content shall not be
40 deemed "qualified digital media content production expenses."

41 "Qualified film production expenses" means an expense incurred
42 in New Jersey for the production of a film including pre-production
43 costs and post-production costs incurred in New Jersey. "Qualified
44 film production expenses" shall include but not be limited to: wages
45 and salaries of individuals employed in the production of a film on
46 which the tax imposed by the "New Jersey Gross Income Tax Act,"
47 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for
48 tangible personal property used, and services performed, directly and

1 exclusively in the production of a film, such as expenditures for film
2 production facilities, props, makeup, wardrobe, film processing,
3 camera, sound recording, set construction, lighting, shooting, editing,
4 and meals. Payment made to a loan out company or to an
5 independent contractor shall not be deemed a "qualified film
6 production expense" unless the payment is made in connection with
7 a trade, profession, or occupation carried on in this State or for the
8 rendition of personal services performed in this State and the
9 taxpayer has made the withholding required pursuant to subsection
10 g. of this section. "Qualified film production expenses" shall not
11 include: expenses incurred in marketing or advertising a film; and
12 payment in excess of \$500,000 to a highly compensated individual
13 for costs for a story, script, or scenario used in the production of a
14 film and wages or salaries or other compensation for writers,
15 directors, including music directors, producers, and performers, other
16 than background actors with no scripted lines, except as follows:

17 (1) for a New Jersey film partner that incurs more than
18 \$30,000,000, but less than \$100,000,000, in qualified film production
19 expenses in the State, an amount, not to exceed \$15,000,000, of the
20 wages or salaries or other compensation for writers, directors,
21 including music directors, producers, and performers, other than
22 background actors with no scripted lines, shall constitute qualified
23 film production expenses;

24 (2) for a New Jersey film partner that incurs \$100,000,000 or
25 more, but less than \$150,000,000, in qualified film production
26 expenses in the State, an amount, not to exceed \$30,000,000, of the
27 wages or salaries or other compensation for writers, directors,
28 including music directors, producers, and performers, other than
29 background actors with no scripted lines, shall constitute qualified
30 film production expenses; and

31 (3) for a New Jersey film partner that incurs \$150,000,000 or more
32 in qualified film production expenses in the State, an amount, not to
33 exceed \$60,000,000, of the wages or salaries or other compensation
34 for writers, directors, including music directors, producers, and
35 performers, other than background actors with no scripted lines, shall
36 constitute qualified film production expenses.

37 "Total digital media content production expenses" means costs for
38 services performed and property used or consumed in the production
39 of digital media content.

40 "Total film production expenses" means costs for services
41 performed and tangible personal property used or consumed in the
42 production of a film.

43 i. A business that is not a "taxpayer" as defined and used in the
44 "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-
45 1 et seq.) and therefore is not directly allowed a credit under this
46 section, but is a business entity that is classified as a partnership for
47 federal income tax purposes and is ultimately owned by a business
48 entity that is a "corporation" as defined in subsection (c) of section 4

1 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company
2 formed under the "Revised Uniform Limited Liability Company
3 Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business
4 in this State as a foreign limited liability company, with one member,
5 and is wholly owned by the business entity that is a "corporation" as
6 defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-
7 4), but otherwise meets all other requirements of this section, shall
8 be considered an eligible applicant and "taxpayer" as that term is used
9 in this section.

10 (cf: P.L.2019, c.506, s.1)

11
12 111. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
13 read as follows:

14 2. a. (1) A taxpayer, upon approval of an application to the
15 authority and the director, shall be allowed a credit against the tax
16 otherwise due for the taxable year under the "New Jersey Gross
17 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30
18 percent of the qualified film production expenses of the taxpayer
19 during a taxable year commencing on or after July 1, 2018 but before
20 July 1, 2028, provided that:

21 (a) at least 60 percent of the total film production expenses,
22 exclusive of post-production costs, of the taxpayer are incurred for
23 services performed, and goods purchased through vendors authorized
24 to do business, in New Jersey, or the qualified film production
25 expenses of the taxpayer during the taxable year exceed \$1,000,000
26 per production;

27 (b) principal photography of the film commences within the
28 earlier of 180 days from the date of the original application for the
29 tax credit, or 150 days from the date of approval of the application
30 for the tax credit;

31 (c) the film includes, when determined to be appropriate by the
32 commission, at no cost to the State, marketing materials promoting
33 this State as a film and entertainment production destination, which
34 materials shall include placement of a "Filmed in New Jersey" or
35 "Produced in New Jersey" statement, or an appropriate logo approved
36 by the commission, in the end credits of the film;

37 (d) the taxpayer submits a tax credit verification report prepared
38 by an independent certified public accountant licensed in this State
39 in accordance with subsection g. of this section; and

40 (e) the taxpayer complies with the withholding requirements
41 provided for payments to loan out companies and independent
42 contractors in accordance with subsection h. of this section.

43 (2) Notwithstanding the provisions of paragraph (1) of subsection
44 a. of this section to the contrary, the tax credit allowed pursuant to
45 this subsection against the tax otherwise due for the taxable year
46 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
47 seq., shall be in an amount equal to 35 percent of the qualified film
48 production expenses of the taxpayer during a taxable year that are

1 incurred for services performed and tangible personal property
2 purchased through vendors whose primary place of business is
3 located in Atlantic, Burlington, Camden, Cape May, Cumberland,
4 Gloucester, Mercer, or Salem County.

5 b. (1) A taxpayer, upon approval of an application to the authority
6 and the director, shall be allowed a credit against the tax otherwise
7 due for the taxable year under the "New Jersey Gross Income Tax
8 Act," N.J.S.54A:1-1 et seq., in an amount equal to 20 percent of the
9 qualified digital media content production expenses of the taxpayer
10 during a taxable year commencing on or after July 1, 2018 but before
11 July 1, 2028, provided that:

12 (a) at least \$2,000,000 of the total digital media content
13 production expenses of the taxpayer are incurred for services
14 performed, and goods purchased through vendors authorized to do
15 business, in New Jersey;

16 (b) at least 50 percent of the qualified digital media content
17 production expenses of the taxpayer are for wages and salaries paid
18 to full-time or full-time equivalent employees in New Jersey;

19 (c) the taxpayer submits a tax credit verification report prepared
20 by an independent certified public accountant licensed in this State
21 in accordance with subsection g. of this section; and

22 (d) the taxpayer complies with the withholding requirements
23 provided for payments to loan out companies and independent
24 contractors in accordance with subsection h. of this section.

25 (2) Notwithstanding the provisions of paragraph (1) of subsection
26 b. of this section to the contrary, the tax credit allowed pursuant to
27 this subsection against the tax otherwise due for the taxable year
28 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
29 seq., shall be in an amount equal to 25 percent for the qualified digital
30 media content production expenses of the taxpayer during a taxable
31 year that are incurred for services performed and tangible personal
32 property purchased through vendors whose primary place of business
33 is located in Atlantic, Burlington, Camden, Cape May, Cumberland,
34 Gloucester, Mercer, or Salem County.

35 c. No tax credit shall be allowed pursuant to this section for any
36 costs or expenses included in the calculation of any other tax credit
37 or exemption granted pursuant to a claim made on a tax return filed
38 with the director, or included in the calculation of an award of
39 business assistance or incentive, for a period of time that coincides
40 with the taxable year for which a tax credit authorized pursuant to
41 this section is allowed. The order of priority in which the tax credit
42 allowed pursuant to this section and any other tax credits allowed by
43 law may be taken shall be as prescribed by the director. The amount
44 of the tax credit applied under this section against the tax otherwise
45 due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
46 seq., for a taxable year, when taken together with any other payments,
47 credits, deductions, and adjustments allowed by law shall not reduce
48 the tax liability of the taxpayer to an amount less than zero. The

1 amount of the tax credit otherwise allowable under this section which
2 cannot be applied for the taxable year due to the limitations of this
3 subsection or under other provisions of N.J.S.54A:1-1 et seq., may
4 be carried forward, if necessary, to the seven taxable years following
5 the taxable year for which the tax credit was allowed.

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

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

22 A business entity that is not a gross income "taxpayer" as defined
23 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
24 et seq., and therefore is not directly allowed a credit under this
25 section, but otherwise meets all the other requirements of this section,
26 shall be considered an eligible applicant and "taxpayer" as that term
27 is used in this section, and the application of an otherwise allowed
28 credit amount shall be distributed to appropriate gross income
29 taxpayers pursuant to the other requirements of this subsection.

30 e. A taxpayer, with an application for a tax credit provided for
31 in subsection a. or subsection b. of this section, may apply to the
32 authority and the director for a tax credit transfer certificate in lieu
33 of the taxpayer being allowed any amount of the tax credit against
34 the tax liability of the taxpayer. The tax credit transfer certificate,
35 upon receipt thereof by the taxpayer from the authority and the
36 director, may be sold or assigned, in full or in part, to any other
37 taxpayer that may have a tax liability under the "New Jersey Gross
38 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
39 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
40 exchange for private financial assistance to be provided by the
41 purchaser or assignee to the taxpayer that has applied for and been
42 granted the tax credit. The tax credit transfer certificate provided to
43 the taxpayer shall include a statement waiving the taxpayer's right to
44 claim that amount of the tax credit against the tax imposed pursuant
45 to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign.
46 The sale or assignment of any amount of a tax credit transfer
47 certificate allowed under this section shall not be exchanged for
48 consideration received by the taxpayer of less than 75 percent of the

1 transferred tax credit amount. Any amount of a tax credit transfer
2 certificate used by a purchaser or assignee against a tax liability under
3 N.J.S.54A:1-1 et seq. shall be subject to the same limitations and
4 conditions that apply to the use of a tax credit pursuant to subsections
5 c. and d. of this section. Any amount of a tax credit transfer
6 certificate obtained by a purchaser or assignee under subsection e. of
7 this section may be applied against the purchaser's or assignee's tax
8 liability under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall be
9 subject to the same limitations and conditions that apply to the use of
10 a credit pursuant to subsection c. of section 1 of P.L.2018, c.56
11 (C.54:10A-5.39b).

12 f. (1) The value of tax credits, including tax credits allowed
13 through the granting of tax credit transfer certificates, approved by
14 the director and the authority pursuant to subsection a. of this section
15 and pursuant to subsection a. of section 1 of P.L.2018, c.56
16 (C.54:10A-5.39b) to taxpayers, other than New Jersey film partners
17 and New Jersey film-lease partners, shall not exceed a cumulative
18 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
19 thereafter prior to fiscal year 2029 to apply against the tax imposed
20 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
21 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
22 In addition to the \$100,000,000 limitation on the value of tax credits
23 approved by the director for New Jersey film-lease partners and the
24 \$100,000,000 limitation on the value of tax credits approved by the
25 director for other taxpayers imposed by this paragraph, the value of
26 tax credits, including tax credits allowed through the granting of tax
27 credit transfer certificates, approved by the director and the authority
28 pursuant to subsection a. of this section and pursuant to subsection a.
29 of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film
30 partners shall not exceed a cumulative total of \$100,000,000 in fiscal
31 year 2021 and in each fiscal year thereafter prior to fiscal year 2029
32 to apply against the tax imposed pursuant to section 5 of P.L.1945,
33 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
34 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the
35 \$100,000,000 limitation on the value of tax credits approved by the
36 director for New Jersey film partners and the \$100,000,000 limitation
37 on the value of tax credits approved by the director for other
38 taxpayers imposed by this paragraph, the value of tax credits,
39 including tax credits allowed through the granting of tax credit
40 transfer certificates, approved by the director and the authority
41 pursuant to subsection a. of this section and pursuant to subsection a.
42 of section 1 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
43 lease partners shall not exceed a cumulative total of \$100,000,000 in
44 fiscal year 2021 and in each fiscal year thereafter prior to fiscal year
45 2029 to apply against the tax imposed pursuant to section 5 of
46 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
47 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

1 If the cumulative total amount of tax credits, and tax credit transfer
2 certificates, allowed to taxpayers for taxable years or privilege
3 periods commencing during a single fiscal year under subsection a.
4 of this section and subsection a. of section 1 of P.L.2018, c.56
5 (C.54:10A-5.39b) exceeds the amount of tax credits available in that
6 fiscal year, then taxpayers who have first applied for and have not
7 been allowed a tax credit or tax credit transfer certificate amount for
8 that reason shall be allowed, in the order in which they have
9 submitted an application, the amount of tax credit or tax credit
10 transfer certificate on the first day of the next succeeding fiscal year
11 in which tax credits and tax credit transfer certificates under
12 subsection a. of this section and subsection a. of section 1 of
13 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
14 credits available.

15 Notwithstanding any provision of paragraph (1) of this subsection
16 to the contrary, for any fiscal year in which the amount of tax credits
17 approved pursuant to this paragraph is less than the cumulative total
18 amount of tax credits permitted to be approved in that fiscal year, the
19 authority shall certify the amount of the remaining tax credits
20 available for approval in that fiscal year, and shall increase the
21 cumulative total amount of tax credits permitted to be approved in
22 the subsequent fiscal year by the certified amount remaining from the
23 prior fiscal year. The authority shall also certify, for each fiscal year,
24 the amount of tax credits that were previously approved, but that the
25 taxpayer is not able to redeem or transfer to another taxpayer under
26 this section, and shall increase the cumulative total amount of tax
27 credits permitted to be approved in the subsequent fiscal year by the
28 amount of tax credits previously approved, but not subject to
29 redemption or transfer. The combined increase to the cumulative
30 total permitted to be approved in a subsequent fiscal year pursuant to
31 this paragraph shall not exceed \$50,000,000.

32 (2) The value of tax credits, including tax credits allowed through
33 the granting of tax credit transfer certificates, approved by the
34 authority and the director pursuant to subsection b. of this section and
35 pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
36 5.39b) shall not exceed a cumulative total of \$10,000,000 in fiscal
37 year 2019 and in each fiscal year thereafter prior to fiscal year 2029
38 to apply against the tax imposed pursuant to the "New Jersey Gross
39 Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant
40 to section 5 of P.L.1945, c.162 (C.54:10A-5).

41 If the total amount of tax credits and tax credit transfer certificates
42 allowed to taxpayers for taxable years or privilege periods
43 commencing during a single fiscal year under subsection b. of this
44 section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
45 5.39b) exceeds the amount of tax credits available in that year, then
46 taxpayers who have first applied for and have not been allowed a tax
47 credit or tax credit transfer certificate amount for that reason shall be
48 allowed, in the order in which they have submitted an application,

1 the amount of tax credit or tax credit transfer certificate on the first
2 day of the next succeeding fiscal year in which tax credits and tax
3 credit transfer certificates under subsection b. of this section and
4 subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not
5 in excess of the amount of credits available.

6 Notwithstanding any provision of this paragraph to the contrary,
7 for any fiscal year in which the amount of tax credits approved
8 pursuant to this paragraph is less than the cumulative total amount of
9 tax credits permitted to be approved in that fiscal year, the authority
10 shall certify the amount of the remaining tax credits available for
11 approval in that fiscal year, and shall increase the cumulative total
12 amount of tax credits permitted to be approved in the subsequent
13 fiscal year by the certified amount remaining from the prior fiscal
14 year. The authority shall also certify, for each fiscal year, the amount
15 of tax credits that were previously approved, but that the taxpayer is
16 not able to redeem or transfer to another taxpayer under this section,
17 and shall increase the cumulative total amount of tax credits
18 permitted to be approved in the subsequent fiscal year by the amount
19 of tax credits previously approved, but not subject to redemption or
20 transfer.

21 g. A taxpayer shall submit to the authority and the director a
22 report prepared by an independent certified public accountant
23 licensed in this State to verify the taxpayer's tax credit claim
24 following the completion of the production. The report shall be
25 prepared by the independent certified public accountant pursuant to
26 agreed upon procedures prescribed by the authority and the director,
27 and shall include such information and documentation as shall be
28 determined to be necessary by the authority and the director to
29 substantiate the qualified film production expenses or the qualified
30 digital media content production expenses of the taxpayer. A single
31 report with attachments deemed necessary by the authority shall be
32 submitted electronically. Upon receipt of the report, the authority
33 and the director shall review the findings of the independent certified
34 public accountant's report, and shall make a determination as to the
35 qualified film production expenses or the qualified digital media
36 content production expenses of the taxpayer. The determination shall
37 be provided in writing to the taxpayer, and a copy of the written
38 determination shall be included in the filing of a return that includes
39 a claim for a tax credit allowed pursuant to this section.

40 h. A taxpayer shall withhold from each payment to a loan out
41 company or to an independent contractor an amount equal to 6.37
42 percent of the payment otherwise due. The amounts withheld shall
43 be deemed to be withholding of liability pursuant to the "New Jersey
44 Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall
45 be deemed to have the rights, duties, and responsibilities of an
46 employer pursuant to chapter 7 of Title 54A of the New Jersey
47 Statutes. The director shall allocate the amounts withheld for a
48 taxable year to the accounts of the individuals who are employees of

1 a loan out company in proportion to the employee's payment by the
2 loan out company in connection with a trade, profession, or
3 occupation carried on in this State or for the rendition of personal
4 services performed in this State during the taxable year. A loan out
5 company that reports its payments to employees in connection with
6 a trade, profession, or occupation carried on in this State or for the
7 rendition of personal services performed in this State during a taxable
8 year shall be relieved of its duties and responsibilities as an employer
9 pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the
10 taxable year for any payments relating to the payments on which the
11 taxpayer withheld.

12 i. As used in this section:

13 "Authority" means the New Jersey Economic Development
14 Authority.

15 "Business assistance or incentive" means "business assistance or
16 incentive" as that term is defined pursuant to section 1 of P.L.2007,
17 c.101 (C.54:50-39).

18 "Commission" means the Motion Picture and Television
19 Development Commission.

20 "Digital media content" means any data or information that is
21 produced in digital form, including data or information created in
22 analog form but reformatted in digital form, text, graphics,
23 photographs, animation, sound, and video content. "Digital media
24 content" shall not mean content offerings generated by the end user
25 (including postings on electronic bulletin boards and chat rooms);
26 content offerings comprised primarily of local news, events, weather
27 or local market reports; public service content; electronic commerce
28 platforms (such as retail and wholesale websites); websites or content
29 offerings that contain obscene material as defined pursuant to
30 N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are
31 produced or maintained primarily for private, industrial, corporate,
32 or institutional purposes; or digital media content acquired or
33 licensed by the taxpayer for distribution or incorporation into the
34 taxpayer's digital media content.

35 "Film" means a feature film, a television series, or a television
36 show of 22 minutes or more in length, intended for a national
37 audience, or a television series or a television show of 22 minutes or
38 more in length intended for a national or regional audience,
39 including, but not limited to, a game show, award show, or other gala
40 event filmed and produced at a nonprofit arts and cultural venue
41 receiving State funding. "Film" shall not include a production
42 featuring news, current events, weather, and market reports or public
43 programming, talk show, sports event, or reality show, a production
44 that solicits funds, a production containing obscene material as
45 defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production
46 primarily for private, industrial, corporate, or institutional purposes.
47 "Film" shall not include an award show or other gala event that is not

1 filmed and produced at a nonprofit arts and cultural venue receiving
2 State funding.

3 "Full-time or full-time equivalent employee" means an individual
4 employed by the taxpayer for consideration for at least 35 hours a
5 week, or who renders any other standard of service generally
6 accepted by custom or practice as full-time or full-time equivalent
7 employment, whose wages are subject to withholding as provided in
8 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
9 who is a partner of a taxpayer, who works for the partnership for at
10 least 35 hours a week, or who renders any other standard of service
11 generally accepted by custom or practice as full-time or full-time
12 equivalent employment, and whose distributive share of income,
13 gain, loss, or deduction, or whose guaranteed payments, or any
14 combination thereof, is subject to the payment of estimated taxes, as
15 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
16 et seq. "Full-time or full-time equivalent employee" shall not include
17 an individual who works as an independent contractor or on a
18 consulting basis for the taxpayer.

19 "Highly compensated individual" means an individual who
20 directly or indirectly receives compensation in excess of \$500,000
21 for the performance of services used directly in a production. An
22 individual receives compensation indirectly when the taxpayer pays
23 a loan out company that, in turn, pays the individual for the
24 performance of services.

25 "Independent contractor" means an individual treated as an
26 independent contractor for federal and State tax purposes who is
27 contracted with by the taxpayer for the performance of services used
28 directly in a production.

29 "Loan out company" means a personal service corporation or other
30 entity that is contracted with by the taxpayer to provide specified
31 individual personnel, such as artists, crew, actors, producers, or
32 directors for the performance of services used directly in a
33 production. "Loan out company" shall not include entities contracted
34 with by the taxpayer to provide goods or ancillary contractor services
35 such as catering, construction, trailers, equipment, or transportation.

36 "New Jersey film partner" means a film production company that
37 has made a commitment to produce films or commercial audiovisual
38 products in New Jersey and has developed, purchased, or executed a
39 10-year contract to lease a production facility of 250,000 square feet
40 or more as a "transformative project" pursuant to section 65 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill). No more
42 than five film production companies may be designated as a New
43 Jersey film partner.

44 "New Jersey film-lease partner" means a taxpayer, including any
45 taxpayer that is a member of a combined group under P.L.2018, c.131
46 (C:54:10A-4.11), that has made a commitment to lease or acquire a
47 New Jersey production facility with an aggregate square footage of
48 at least 50,000 square feet, which includes a sound stage and

1 production support space such as production offices or a backlot, for
2 a period of five or more successive years and commits to spend, on a
3 separate-entity basis or in the aggregate with other members of the
4 taxpayer's combined group, an annual average of \$50,000,000 of
5 qualified film production expenses over the period of at least five but
6 not to exceed 10 years. The authority shall be permitted to recapture
7 any credits awarded to a New Jersey film-lease partner if the New
8 Jersey film-lease partner, or any member of the New Jersey film-
9 lease partner's combined group fails to maintain a New Jersey
10 production facility during the period prescribed or if the New Jersey
11 film-lease partner, on a separate-entity basis or in the aggregate with
12 other members of the New Jersey film-lease partner's combined
13 group, fails to spend an annual average of \$50,000,000 of qualified
14 film production expenses over the prescribed period.

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

17 "Post-production costs" means the costs of the phase of production
18 of a film that follows principal photography, in which raw footage is
19 cut and assembled into a finished film with sound synchronization
20 and visual effects.

21 "Pre-production costs" means the costs of the phase of production
22 of a film that precedes principal photography, in which a detailed
23 schedule and budget for the production is prepared, the script and
24 location is finalized, and contracts with vendors are negotiated.

25 "Qualified digital media content production expenses" means an
26 expense incurred in New Jersey for the production of digital media
27 content. "Qualified digital media content production expenses" shall
28 include but not be limited to: wages and salaries of individuals
29 employed in the production of digital media content on which the tax
30 imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
31 et seq. has been paid or is due; and the costs of computer software
32 and hardware, data processing, visualization technologies, sound
33 synchronization, editing, and the rental of facilities and equipment.
34 Payment made to a loan out company or to an independent contractor
35 shall not be deemed a "qualified digital media content production
36 expense" unless the payment is made in connection with a trade,
37 profession, or occupation carried on in this State or for the rendition
38 of personal services performed in this State and the taxpayer has
39 made the withholding required pursuant to subsection h. of this
40 section. "Qualified digital media content production expenses" shall
41 not include expenses incurred in marketing, promotion, or
42 advertising digital media or other costs not directly related to the
43 production of digital media content. Costs related to the acquisition
44 or licensing of digital media content by the taxpayer for distribution
45 or incorporation into the taxpayer's digital media content shall not be
46 deemed "qualified digital media content production expenses."

47 "Qualified film production expenses" means an expense incurred
48 in New Jersey for the production of a film including pre-production

1 costs and post-production costs incurred in New Jersey. "Qualified
2 film production expenses" shall include but not be limited to: wages
3 and salaries of individuals employed in the production of a film on
4 which the tax imposed by the "New Jersey Gross Income Tax Act,"
5 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for
6 tangible personal property used, and services performed, directly and
7 exclusively in the production of a film, such as expenditures for film
8 production facilities, props, makeup, wardrobe, film processing,
9 camera, sound recording, set construction, lighting, shooting, editing,
10 and meals. Payment made to a loan out company or to an
11 independent contractor shall not be deemed a "qualified film
12 production expense" unless the payment is made in connection with
13 a trade, profession, or occupation carried on in this State or for the
14 rendition of personal services performed in this State and the
15 taxpayer has made the withholding required by subsection h. of this
16 section. "Qualified film production expenses" shall not include:
17 expenses incurred in marketing or advertising a film; and payment in
18 excess of \$500,000 to a highly compensated individual for costs for
19 a story, script, or scenario used in the production of a film and wages
20 or salaries or other compensation for writers, directors, including
21 music directors, producers, and performers, other than background
22 actors with no scripted lines, except as follows:

23 (1) for a New Jersey film partner that incurs more than
24 \$30,000,000, but less than \$100,000,000, 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 \$100,000,000 or
31 more, but less than \$150,000,000, in qualified film production
32 expenses in the State, an amount, not to exceed \$30,000,000, 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; and

37 (3) for a New Jersey film partner that incurs \$150,000,000 or more
38 in qualified film production expenses in the State, an amount, not to
39 exceed \$60,000,000, of the wages or salaries or other compensation
40 for writers, directors, including music directors, producers, and
41 performers, other than background actors with no scripted lines, shall
42 constitute qualified film production expenses.

43 "Total digital media content production expenses" means costs for
44 services performed and property used or consumed in the production
45 of digital media content.

46 "Total film production expenses" means costs for services
47 performed and tangible personal property used or consumed in the

1 production of a film.
2 (cf: P.L.2019, c.506, s.2)

3
4 112. Section 1 of P.L.1979, c.303 (C.34:1b-5.1) is amended to
5 read as follows:

6 1. a. The New Jersey Economic Development Authority shall
7 adopt rules and regulations requiring that not less than the prevailing
8 wage rate be paid to workers employed in the performance of any
9 construction contract, including contracts for millwork fabrication,
10 undertaken in connection with authority financial assistance or any
11 of its projects, those projects which it undertakes pursuant to
12 P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any
13 condition of receiving authority financial assistance, including the
14 performance of any contract to construct, renovate or otherwise
15 prepare a facility for operations which are necessary for the receipt
16 of authority financial assistance, unless the work performed under the
17 contract is performed on a facility owned by a landlord of the entity
18 receiving the assistance and less than 55% of the facility is leased by
19 the entity at the time of the contract and under any agreement to
20 subsequently lease the facility. The prevailing wage rate shall be the
21 rate determined by the Commissioner of Labor and Workforce
22 Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-
23 56.25 et seq.). For the purposes of this section, "authority financial
24 assistance" means any loan, loan guarantee, grant, incentive, tax
25 exemption or other financial assistance that is approved, funded,
26 authorized, administered or provided by the authority to any entity
27 and is provided before, during or after completion of a project,
28 including but not limited to, all authority financial assistance
29 received by the entity pursuant to the "Business Employment
30 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that
31 enables the entity to engage in a construction contract, but this
32 section shall not be construed as requiring the payment of the
33 prevailing wage for construction commencing more than two years
34 after an entity has executed with the authority a commitment letter
35 regarding authority financial assistance and the first payment or other
36 provision of the assistance is received.

37 b. The New Jersey Economic Development Authority shall adopt
38 rules and regulations requiring that not less than the prevailing wage
39 rate be paid to workers employed in the performance of any contract,
40 for construction, demolition, remediation, removal of hazardous
41 substances, alteration, custom fabrication, repair work, or
42 maintenance work, including painting and decorating, or excavation,
43 grading, pile driving, concrete form, or other types of foundation
44 work in connection with the "New Jersey Aspire Program Act,"
45 sections 54 through 67 of P.L. , c. (C.) (pending before the
46 Legislature as this bill) and the "New Jersey Community-Anchored
47 Development Act," sections 43 through 53 of P.L. , c. (C.)
48 (pending before the Legislature as this bill). The requirements of this

1 subsection shall apply to any site preparation work performed 24
2 months prior to and during the incentive eligibility period of any
3 project receiving tax credits under the "New Jersey Aspire Program
4 Act," sections 54 through 67 of P.L. , c. (C.) (pending before
5 the Legislature as this bill) and the "New Jersey Community-
6 Anchored Development Act," sections 43 through 53 of P.L. , c.
7 (C.) (pending before the Legislature as this bill), in which there
8 is a continuity of ownership in the site of the redevelopment project,
9 including work undertaken to fulfill any condition of receiving tax
10 credits under the programs. Work that is subject to the requirements
11 of this subsection shall include the performance of any contract for
12 construction, demolition, remediation, removal of hazardous
13 substances, alteration, custom fabrication, repair work, or
14 maintenance work, including painting and decorating, or excavation,
15 grading, pile driving, concrete form, or other types of foundation
16 work undertaken on a facility for operations which are necessary for
17 the receipt of tax credits under the "New Jersey Aspire Program Act,"
18 sections 54 through 67 of P.L. , c. (C.) (pending before the
19 Legislature as this bill) and the "New Jersey Community-Anchored
20 Development Act," sections 43 through 53 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), unless the work
22 performed under the contract is performed on a facility owned by a
23 landlord of the entity receiving the tax credit and less than 35 percent
24 of the facility is leased by the entity at the time of the contract and
25 under any agreement to subsequently lease the facility. The
26 prevailing wage rate shall be the rate determined by the
27 Commissioner of Labor and Workforce Development pursuant to the
28 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all
29 contractors and subcontractors subject to the prevailing wage
30 requirement set forth in this section shall be registered with the
31 Department of Labor and Workforce Development pursuant to the
32 provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
33 applicant for tax credits under the "New Jersey Aspire Program Act,"
34 sections 54 through 67 of P.L. , c. (C.) (pending before the
35 Legislature as this bill) and the "New Jersey Community-Anchored
36 Development Act," sections 43 through 53 of P.L. , c. (C.)
37 (pending before the Legislature as this bill), shall certify under
38 penalty of perjury as part of its application that all construction
39 contracts undertaken on any project in connection with an award
40 under the programs comply with the prevailing wage requirements of
41 this subsection. If at any time the authority determines that the
42 developer made a material misrepresentation regarding compliance
43 with the provisions of this subsection on the developer's application,
44 the developer shall forfeit 35 percent of the tax credits allowed under
45 the programs, and pay to the affected workers back wages in an
46 amount that compensates the workers at the prevailing wage rate for
47 the work performed.
48 (cf: P.L.2007, c.245, s.1)

1 113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is amended to
2 read as follows:

3 1. a. The New Jersey Economic Development Authority shall
4 establish within the New Jersey Emerging Technology and
5 Biotechnology Financial Assistance Program established pursuant to
6 P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business tax
7 benefit certificate transfer program to allow new or expanding
8 emerging technology and biotechnology companies in this State with
9 unused amounts of research and development tax credits otherwise
10 allowable which cannot be applied for the credit's tax year due to the
11 limitations of subsection b. of section 1 of P.L.1993, c.175
12 (C.54:10A-5.24) and unused net operating loss carryover pursuant to
13 subparagraph (B) of paragraph (6) of subsection (k) of section 4 of
14 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits for use
15 by other corporation business taxpayers in this State, provided that
16 the taxpayer receiving the surrendered tax benefits is not affiliated
17 with a corporation that is surrendering its tax benefits under the
18 program established under P.L.1997, c.334. For the purposes of this
19 section, the test of affiliation is whether the same entity directly or
20 indirectly owns or controls 5% or more of the voting rights or 5% or
21 more of the value of all classes of stock of both the taxpayer receiving
22 the benefits and a corporation that is surrendering the benefits. The
23 tax benefits may be used on the corporation business tax returns to
24 be filed by those taxpayers in exchange for private financial
25 assistance to be provided by the corporation business taxpayer that is
26 the recipient of the corporation business tax benefit certificate to
27 assist in the funding of costs incurred by the new or expanding
28 emerging technology and biotechnology company.

29 b. The authority, in cooperation with the Division of Taxation in
30 the Department of the Treasury, shall review and approve
31 applications by new or expanding emerging technology and
32 biotechnology companies in this State with unused but otherwise
33 allowable carryover of research and development tax credits pursuant
34 to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and unused but
35 otherwise allowable net operating loss carryover pursuant to
36 paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162
37 (C.54:10A-4), to surrender those tax benefits in exchange for private
38 financial assistance to be made by the corporation business taxpayer
39 that is the recipient of the corporation business tax benefit certificate
40 in an amount equal to at least 80% of the amount of the surrendered
41 tax benefit. Provided that the amount of the surrendered tax benefit
42 for a surrendered research and development tax credit carryover is
43 the amount of the credit, and provided that the amount of the
44 surrendered tax benefit for a surrendered net operating loss carryover
45 is the amount of the loss multiplied by the new or expanding
46 emerging technology or biotechnology company's anticipated
47 allocation factor, as determined pursuant to section 6 of P.L.1945,
48 c.162 (C.54:10A-6) for the tax year in which the benefit is transferred

1 and subsequently multiplied by the corporation business tax rate
 2 provided pursuant to subsection (c) of section 5 of P.L.1945, c.162
 3 (C.54:10A-5). The authority shall be authorized to approve the
 4 transfer of no more than **[\$60,000,000]** \$75,000,000 of tax benefits
 5 in a State fiscal year. If the total amount of transferable tax benefits
 6 requested to be surrendered by approved applicants exceeds
 7 **[\$60,000,000]** \$75,000,000 for a State fiscal year, the authority, in
 8 cooperation with the Division of Taxation in the Department of the
 9 Treasury, shall not be authorized to approve the transfer of more than
 10 **[\$60,000,000]** \$75,000,000 for that State fiscal year and shall
 11 allocate the transfer of tax benefits by approved companies using the
 12 following method:

13 (1) an eligible applicant with \$250,000 or less of transferable tax
 14 benefits shall be authorized to surrender the entire amount of its
 15 transferable tax benefits;

16 (2) an eligible applicant with more than \$250,000 of transferable
 17 tax benefits shall be authorized to surrender a minimum of \$250,000
 18 of its transferable tax benefits;

19 (3) (Deleted by amendment, P.L.2009, c.90.)

20 (4) an eligible applicant with more than \$250,000 shall also be
 21 authorized to surrender additional transferable tax benefits
 22 determined by multiplying the applicant's transferable tax benefits
 23 less the minimum transferable tax benefits that company is
 24 authorized to surrender under paragraph (2) of this subsection by a
 25 fraction, the numerator of which is the total amount of transferable
 26 tax benefits that the authority is authorized to approve less the total
 27 amount of transferable tax benefits approved under paragraphs (1),
 28 (2), and (5) of this subsection and the denominator of which is the
 29 total amount of transferable tax benefits requested to be surrendered
 30 by all eligible applicants less the total amount of transferable tax
 31 benefits approved under paragraphs (1), (2), and (5) of this
 32 subsection;

33 (5) The authority shall establish the boundaries for three
 34 innovation zones to be geographically distributed in the northern,
 35 central, and southern portions of this State. Of the **[\$60,000,000]**
 36 \$75,000,000 of transferable tax benefits authorized for each State
 37 fiscal year, \$10,000,000 shall be allocated for the surrender of
 38 transferable tax benefits exclusively by new and expanding emerging
 39 technology and biotechnology companies that operate within the
 40 boundaries of the innovation zones, except that any portion of the
 41 \$10,000,000 that is not so approved shall be available for that State
 42 fiscal year for the surrender of transferable tax benefits by new and
 43 expanding emerging technology and biotechnology companies that
 44 do not operate within the boundaries of an innovation zone.

45 If the total amount of transferable tax benefits that would be
 46 authorized using the above method exceeds **[\$60,000,000]**
 47 \$75,000,000 for a State fiscal year, then the authority, in cooperation

1 with the Division of Taxation in the Department of the Treasury, shall
2 limit the total amount of tax benefits authorized to be transferred to
3 **【\$60,000,000】** \$75,000,000 by applying the above method on an
4 apportioned basis.

5 For purposes of this section transferable tax benefits include an
6 eligible applicant's unused but otherwise allowable carryover of net
7 operating losses multiplied by the applicant's anticipated allocation
8 factor as determined pursuant to section 6 of P.L.1945, c.162
9 (C.54:10A-6) for the tax year in which the benefit is transferred and
10 subsequently multiplied by the corporation business tax rate as
11 provided in subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-
12 5) plus the total amount of the applicant's unused but otherwise
13 allowable carryover of research and development tax credits. An
14 eligible applicant's transferable tax benefits shall be limited to net
15 operating losses and research and development tax credits that the
16 applicant requests to surrender in its application to the authority and
17 shall not, in total, exceed the maximum amount of tax benefits that
18 the applicant is eligible to surrender.

19 No application for a corporation business tax benefit transfer
20 certificate shall be approved in which the new or expanding emerging
21 technology or biotechnology company (1) has demonstrated positive
22 net operating income in any of the two previous full years of ongoing
23 operations as determined on its financial statements issued according
24 to generally accepted accounting standards endorsed by the Financial
25 Accounting Standards Board; or (2) is directly or indirectly at least
26 50 percent owned or controlled by another corporation that has
27 demonstrated positive net operating income in any of the two
28 previous full years of ongoing operations as determined on its
29 financial statements issued according to generally accepted
30 accounting standards endorsed by the Financial Accounting
31 Standards Board or is part of a consolidated group of affiliated
32 corporations, as filed for federal income tax purposes, that in the
33 aggregate has demonstrated positive net operating income in any of
34 the two previous full years of ongoing operations as determined on
35 its combined financial statements issued according to generally
36 accepted accounting standards endorsed by the Financial Accounting
37 Standards Board.

38 The maximum lifetime value of surrendered tax benefits that a
39 corporation shall be permitted to surrender pursuant to the program
40 is **【\$15,000,000】** \$20,000,000. Applications must be received on or
41 before June 30 of each State fiscal year.

42 The authority, in consultation with the Division of Taxation, shall
43 establish rules for the recapture of all, or a portion of, the amount of
44 a grant of a corporation business tax benefit certificate from the new
45 or emerging technology and biotechnology company having
46 surrendered tax benefits pursuant to this section in the event the
47 taxpayer fails to use the private financial assistance received for the
48 surrender of tax benefits as required by this section or fails to

1 maintain a headquarters or a base of operation in this State during the
2 five years following receipt of the private financial assistance; except
3 if the failure to maintain a headquarters or a base of operation in this
4 State is due to the liquidation of the new or expanding emerging
5 technology and biotechnology company.

6 c. The authority, in cooperation with the Division of Taxation in
7 the Department of the Treasury, shall review and approve
8 applications by taxpayers under the Corporation Business Tax Act
9 (1945), P.L.1945, c.162 (C.54:10A- 1 et seq.), to acquire surrendered
10 tax benefits approved pursuant to subsection b. of this section which
11 shall be issued in the form of corporation business tax benefit transfer
12 certificates, in exchange for private financial assistance to be made
13 by the taxpayer in an amount equal to at least 80% of the amount of
14 the surrendered tax benefit of an emerging technology or
15 biotechnology company in the State. A corporation business tax
16 benefit transfer certificate shall not be issued unless the applicant
17 certifies that as of the date of the exchange of the corporation
18 business tax benefit certificate it is operating as a new or expanding
19 emerging technology or biotechnology company and has no current
20 intention to cease operating as a new or expanding emerging
21 technology or biotechnology company.

22 The private financial assistance shall assist in funding expenses
23 incurred in connection with the operation of the new or expanding
24 emerging technology or biotechnology company in the State,
25 including but not limited to the expenses of fixed assets, such as the
26 construction and acquisition and development of real estate,
27 materials, start-up, tenant fit-out, working capital, salaries, research
28 and development expenditures and any other expenses determined by
29 the authority to be necessary to carry out the purposes of the New
30 Jersey Emerging Technology and Biotechnology Financial
31 Assistance Program.

32 The authority shall require a corporation business taxpayer that
33 acquires a corporation business tax benefit certificate to enter into a
34 written agreement with the new or expanding emerging technology
35 or biotechnology company concerning the terms and conditions of
36 the private financial assistance made in exchange for the certificate.
37 The written agreement may contain terms concerning the
38 maintenance by the new or expanding emerging technology or
39 biotechnology company of a headquarters or a base of operation in
40 this State.

41 d. (Deleted by amendment, P.L.2009, c.90.)
42 (cf: P.L.2009, c.90, s.29)

43

44 114. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to
45 read as follows:

46 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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

4 “Biotechnology” means the continually expanding body of
5 fundamental knowledge about the functioning of biological systems
6 from the macro level to the molecular and sub-atomic levels, as well
7 as novel products, services, technologies and sub-technologies
8 developed as a result of insights gained from research advances that
9 add to that body of fundamental knowledge. This definition may be
10 modified by regulation to conform to definitions in other programs
11 administered by the authority.

12 “Biotechnology company” means an emerging corporation that
13 has its headquarters or base of operations in this State; that owns, has
14 filed for, or has a valid license to use protected, proprietary
15 intellectual property; and that is engaged in the research,
16 development, production, or provision of biotechnology for the
17 purpose of developing or providing products or processes for specific
18 commercial or public purposes, including but not limited to, medical,
19 pharmaceutical, nutritional, and other health-related purposes,
20 agricultural purposes, and environmental purposes. This definition
21 may be modified by regulation to conform to definitions in other
22 programs administered by the authority.

23 “Full-time employee” means a person employed by a new or
24 expanding emerging technology or biotechnology company for
25 consideration for at least 35 hours a week, or who renders any other
26 standard of service generally accepted by custom or practice as full-
27 time employment and whose wages are subject to withholding as
28 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
29 et seq., or who is a partner of a new or expanding emerging
30 technology or biotechnology company who works for the partnership
31 for at least 35 hours a week, or who renders any other standard of
32 service generally accepted by custom or practice as full-time
33 employment, and whose distributive share of income, gain, loss, or
34 deduction, or whose guaranteed payments, or any combination
35 thereof, is subject to the payment of estimated taxes, as provided in
36 the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. To
37 qualify as a “full-time employee,” an employee shall also receive
38 from the new or expanding emerging technology or biotechnology
39 company health benefits under **【a group health plan as defined under**
40 **section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan**
41 **as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a**
42 **policy or contract of health insurance covering more than one person**
43 **issued pursuant to Article 2 【N.J.S.17B:27-26 et seq.】 of chapter 27**
44 **of Title 17B of the New Jersey Statutes】 a health benefits plan**
45 **authorized pursuant to State or federal law.** “Full-time employee”
46 shall not include any person who works as an independent contractor
47 or on a consulting basis for the new or expanding emerging
48 technology or biotechnology company.

1 “New or expanding” means a technology or biotechnology
2 company that (1) on June 30 of the year in which the company files
3 an application for surrender of unused but otherwise allowable tax
4 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the date
5 of the exchange of the corporation business tax benefit certificate,
6 has fewer than 225 employees in the United States of America; (2)
7 on June 30 of the year in which the company files such an application,
8 has at least one full-time employee working in this State if the
9 company has been incorporated for less than three years, has at least
10 five full-time employees working in this State if the company has
11 been incorporated for more than three years but less than five years,
12 and has at least 10 full-time employees working in this State if the
13 company has been incorporated for more than five years; and (3) on
14 the date of the exchange of the corporation business tax benefit
15 certificate, the company has the requisite number of full-time
16 employees in New Jersey that were required on June 30 as set forth
17 in part (2) of this definition.

18 “Technology company” means an emerging corporation that has
19 its headquarters or base of operations in this State; that owns, has
20 filed for, or has a valid license to use protected, proprietary
21 intellectual property; and that employs some combination of the
22 following: highly educated or trained managers and workers, or both,
23 employed in this State who use sophisticated scientific research
24 service or production equipment, processes or knowledge to
25 discover, develop, test, transfer or manufacture a product or service.
26 This definition may be modified by regulation to conform to
27 definitions in other programs administered by the authority.
28 (cf: P.L.2010, c.10, s.2)
29

30 115. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
31 as follows:

32 5. The authority shall have the following powers:
33 a. To adopt bylaws for the regulation of its affairs and the
34 conduct of its business;
35 b. To adopt and have a seal and to alter the same at pleasure;
36 c. To sue and be sued;
37 d. To acquire in the name of the authority by purchase or
38 otherwise, on such terms and conditions and such manner as it may
39 deem proper, or by the exercise of the power of eminent domain in
40 the manner provided by the "Eminent Domain Act of 1971,"
41 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
42 other property which it may determine is reasonably necessary for
43 any project; provided, however, that the authority in connection with
44 any project shall not take by exercise of the power of eminent domain
45 any real property except upon consent thereto given by resolution of
46 the governing body of the municipality in which such real property
47 is located; and provided further that the authority shall be limited in
48 its exercise of the power of eminent domain in connection with any

1 project in qualifying municipalities as defined under the provisions
2 of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which
3 had a population, according to the latest federal decennial census, in
4 excess of 10,000;

5 e. To enter into contracts with a person upon such terms and
6 conditions as the authority shall determine to be reasonable,
7 including, but not limited to, reimbursement for the planning,
8 designing, financing, construction, reconstruction, improvement,
9 equipping, furnishing, operation and maintenance of the project and
10 to pay or compromise any claims arising therefrom;

11 f. To establish and maintain reserve and insurance funds with
12 respect to the financing of the project or the school facilities project
13 and any project financed pursuant to the "Municipal Rehabilitation
14 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

15 g. To sell, convey or lease to any person all or any portion of a
16 project for such consideration and upon such terms as the authority
17 may determine to be reasonable;

18 h. To mortgage, pledge or assign or otherwise encumber all or
19 any portion of a project, or revenues, whenever it shall find such
20 action to be in furtherance of the purposes of this act, P.L.2000, c.72
21 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
22 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
23 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
24 c.90 (C.52:27D-489c et al.);

25 i. To grant options to purchase or renew a lease for any of its
26 projects on such terms as the authority may determine to be
27 reasonable;

28 j. To contract for and to accept any gifts or grants or loans of
29 funds or property or financial or other aid in any form from the
30 United States of America or any agency or instrumentality thereof,
31 or from the State or any agency, instrumentality or political
32 subdivision thereof, or from any other source and to comply, subject
33 to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
34 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
35 the "Municipal Rehabilitation and Economic Recovery Act,"
36 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
37 (C.52:18A-235 et al.), with the terms and conditions thereof;

38 k. In connection with any action undertaken by the authority in
39 the performance of its duties and any application for assistance or
40 commitments therefor and modifications thereof, to require and
41 collect such fees and charges as the authority shall determine to be
42 reasonable, including but not limited to fees and charges for the
43 authority's administrative, organizational, insurance, operating,
44 legal, and other expenses;

45 l. To adopt, amend and repeal regulations to carry out the
46 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
47 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
48 the "Municipal Rehabilitation and Economic Recovery Act,"

1 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
2 (C.52:18A-235 et al.);

3 m. To acquire, purchase, manage and operate, hold and dispose
4 of real and personal property or interests therein, take assignments of
5 rentals and leases and make and enter into all contracts, leases,
6 agreements and arrangements necessary or incidental to the
7 performance of its duties;

8 n. To purchase, acquire and take assignments of notes,
9 mortgages and other forms of security and evidences of indebtedness;

10 o. To purchase, acquire, attach, seize, accept or take title to any
11 project or school facilities project by conveyance or by foreclosure,
12 and sell, lease, manage or operate any project or school facilities
13 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et
14 al.), the "Municipal Rehabilitation and Economic Recovery Act,"
15 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-
16 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-
17 489c et al.);

18 p. To borrow money and to issue bonds of the authority and to
19 provide for the rights of the holders thereof, as provided in P.L.1974,
20 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
21 P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation
22 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
23 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
24 P.L.2009, c.90 (C.52:27D-489c et al.);

25 q. To extend credit or make loans to any person for the planning,
26 designing, acquiring, constructing, reconstructing, improving,
27 equipping and furnishing of a project or school facilities project,
28 which credits or loans may be secured by loan and security
29 agreements, mortgages, leases and any other instruments, upon such
30 terms and conditions as the authority shall deem reasonable,
31 including provision for the establishment and maintenance of reserve
32 and insurance funds, and to require the inclusion in any mortgage,
33 lease, contract, loan and security agreement or other instrument, of
34 such provisions for the construction, use, operation and maintenance
35 and financing of a project or school facilities project as the authority
36 may deem necessary or desirable;

37 r. To guarantee up to 90% of the amount of a loan to a person,
38 if the proceeds of the loan are to be applied to the purchase and
39 installation, in a building devoted to industrial or commercial
40 purposes, or in an office building, of an energy improvement system;

41 s. To employ consulting engineers, architects, attorneys, real
42 estate counselors, appraisers, and such other consultants and
43 employees as may be required in the judgment of the redevelopment
44 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.),
45 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
46 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
47 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
48 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,

1 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation
2 from funds available to the redevelopment utility therefor, all without
3 regard to the provisions of Title 11A of the New Jersey Statutes;

4 t. To do and perform any acts and things authorized by
5 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
6 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
7 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
8 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
9 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),
10 under, through or by means of its own officers, agents and
11 employees, or by contract with any person;

12 u. To procure insurance against any losses in connection with its
13 property, operations or assets in such amounts and from such insurers
14 as it deems desirable;

15 v. To do any and all things necessary or convenient to carry out
16 its purposes and exercise the powers given and granted in P.L.1974,
17 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
18 P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation
19 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
20 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
21 P.L.2009, c.90 (C.52:27D-489c et al.);

22 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
23 maintain or repair or provide for the construction, reconstruction,
24 improvement, alteration, equipping or maintenance or repair of any
25 development property and lot, award and enter into construction
26 contracts, purchase orders and other contracts with respect thereto,
27 upon such terms and conditions as the authority shall determine to be
28 reasonable, including, but not limited to, reimbursement for the
29 planning, designing, financing, construction, reconstruction,
30 improvement, equipping, furnishing, operation and maintenance of
31 any such development property and the settlement of any claims
32 arising therefrom and the establishment and maintenance of reserve
33 funds with respect to the financing of such development property;

34 x. When authorized by the governing body of a municipality
35 exercising jurisdiction over an urban growth zone, to construct, cause
36 to be constructed or to provide financial assistance to projects in an
37 urban growth zone which shall be exempt from the terms and
38 requirements of the land use ordinances and regulations, including,
39 but not limited to, the master plan and zoning ordinances, of such
40 municipality;

41 y. To enter into business employment incentive agreements as
42 provided in the "Business Employment Incentive Program Act,"
43 P.L.1996, c.26 (C.34:1B-124 et al.);

44 z. To enter into agreements or contracts, execute instruments,
45 and do and perform all acts or things necessary, convenient or
46 desirable for the purposes of the redevelopment utility to carry out
47 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-
48 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137

1 (C.52:18A-235 et al.), including, but not limited to, entering into
2 contracts with the State Treasurer, the Commissioner of Education,
3 districts, the New Jersey Schools Development Authority, and any
4 other entity which may be required in order to carry out the
5 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137
6 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
7 (C.52:27D-489c et al.);

8 aa. (Deleted by amendment, P.L.2007, c.137);

9 bb. To make and contract to make loans to local units to finance
10 the cost of school facilities projects and to acquire and contract to
11 acquire bonds, notes or other obligations issued or to be issued by
12 local units to evidence the loans, all in accordance with the provisions
13 of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
14 (C.52:18A-235 et al.);

15 cc. Subject to any agreement with holders of its bonds issued to
16 finance a project or school facilities project, obtain as security or to
17 provide liquidity for payment of all or any part of the principal of and
18 interest and premium on the bonds of the authority or for the purchase
19 upon tender or otherwise of the bonds, lines of credit, letters of credit,
20 reimbursement agreements, interest rate exchange agreements,
21 currency exchange agreements, interest rate floors or caps, options,
22 puts or calls to hedge payment, currency, rate, spread or similar
23 exposure or similar agreements, float agreements, forward
24 agreements, insurance contract, surety bond, commitment to
25 purchase or sell bonds, purchase or sale agreement, or commitments
26 or other contracts or agreements, and other security agreements or
27 instruments in any amounts and upon any terms as the authority may
28 determine and pay any fees and expenses required in connection
29 therewith;

30 dd. To charge to and collect from local units, the State and any
31 other person, any fees and charges in connection with the authority's
32 actions undertaken with respect to school facilities projects,
33 including, but not limited to, fees and charges for the authority's
34 administrative, organization, insurance, operating and other expenses
35 incident to the financing of school facilities projects;

36 ee. To make loans to refinance solid waste facility bonds through
37 the issuance of bonds or other obligations and the execution of any
38 agreements with counties or public authorities to effect the refunding
39 or rescheduling of solid waste facility bonds, or otherwise provide
40 for the payment of all or a portion of any series of solid waste facility
41 bonds. Any county or public authority refunding or rescheduling its
42 solid waste facility bonds pursuant to this subsection shall provide
43 for the payment of not less than fifty percent of the aggregate debt
44 service for the refunded or rescheduled debt of the particular county
45 or public authority for the duration of the loan; except that, whenever
46 the solid waste facility bonds to be refinanced were issued by a public
47 authority and the county solid waste facility was utilized as a regional
48 county solid waste facility, as designated in the respective adopted

1 district solid waste management plans of the participating counties
2 as approved by the department prior to November 10, 1997, and the
3 utilization of the facility was established pursuant to tonnage
4 obligations set forth in their respective interdistrict agreements, the
5 public authority refunding or rescheduling its solid waste facility
6 bonds pursuant to this subsection shall provide for the payment of a
7 percentage of the aggregate debt service for the refunded or
8 rescheduled debt of the public authority not to exceed the percentage
9 of the specified tonnage obligation of the host county for the duration
10 of the loan. Whenever the solid waste facility bonds are the
11 obligation of a public authority, the relevant county shall execute a
12 deficiency agreement with the authority, which shall provide that the
13 county pledges to cover any shortfall and to pay deficiencies in
14 scheduled repayment obligations of the public authority. All costs
15 associated with the issuance of bonds pursuant to this subsection may
16 be paid by the authority from the proceeds of these bonds. Any
17 county or public authority is hereby authorized to enter into any
18 agreement with the authority necessary, desirable or convenient to
19 effectuate the provisions of this subsection.

20 The authority shall not issue bonds or other obligations to effect
21 the refunding or rescheduling of solid waste facility bonds after
22 December 31, 2002. The authority may refund its own bonds issued
23 for the purposes herein at any time;

24 ff. To pool loans for any local government units that are
25 refunding bonds and do and perform any and all acts or things
26 necessary, convenient or desirable for the purpose of the authority to
27 achieve more favorable interest rates and terms for those local
28 governmental units;

29 gg. To finance projects approved by the board, provide staff
30 support to the board, oversee and monitor progress on the part of the
31 board in carrying out the revitalization, economic development and
32 restoration projects authorized pursuant to the "Municipal
33 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
34 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
35 pursuant thereto;

36 hh. To offer financial assistance to qualified film production
37 companies as provided in the "New Jersey Film Production
38 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.);

39 ii. To finance or develop private or public parking facilities or
40 structures, which may include the use of solar photovoltaic
41 equipment, in municipalities qualified to receive State aid pursuant
42 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and
43 municipalities that contain areas designated pursuant to P.L.1985,
44 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),
45 Planning Area 2 (Suburban), or a town center, and to provide
46 appropriate assistance, including but not limited to, extensions of
47 credit, loans, and guarantees, to municipalities qualified to receive
48 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178

et seq.) and municipalities that contain areas designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town center, and their agencies and instrumentalities or to private entities whose projects are located in those municipalities, in order to facilitate the financing and development of parking facilities or structures in such municipalities. The authority may serve as the issuing agent of bonds to finance the undertaking of a project for the purposes of this subsection; **[and]**

jj. To make grants for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, and furnishing of a project, including, but not limited to, grants for working capital and meeting payroll requirements, upon such terms and conditions as the authority shall deem reasonable, during periods of emergency declared by the Governor and for the duration of economic disruptions due to the emergency;

kk. To purchase and lease real property at a nominal rate when it would result in a net economic benefit to the State, enhance access to employment and investment for underserved populations, or increase investment and employment in high-growth technology sectors; and (cf: P.L.2020, c.8, s.1)

116. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to read as follows:

4. The authority may use the moneys in the fund to pay principal of, premium, if any, and interest on bonds or notes, which shall be entitled "Economic Recovery Fund Bonds or Notes," as appropriate, the proceeds, or net proceeds, of which shall be deposited into the fund, or used for purposes of the fund, and moneys in the fund, including money received from the sale of bonds shall, in such manner as is determined by the authority, and pursuant to subsections d., e., and f. of this section, be used for the financing of projects as set forth in section 3 of P.L.1974, c.80 (C.34:1B-3) and to establish:

a. an economic growth account for **[business]** programs and initiatives, which will support and invest in small and medium-size businesses and other entities engaged in economic, community, and workforce development that have the greatest potential for creating jobs and stimulating economic growth through such elements **[as]** including, but not limited to:

(1) a Statewide lending pool and guarantee pool for small business, whether directly or through a community development financial institution;

(2) a business composite bond guarantee **[.]** ;

(3) a fund to further supplement the export finance program of the authority to provide direct loans and working capital necessary for New Jersey businesses to compete in the global market, real estate partnerships **[.]** ;

1 (4) a Statewide composite bond pool to assist municipalities in
2 acquiring needed financing for capital expenditures **[,]** ;

3 (5) **[community-based]** financial assistance to assist
4 municipalities **[in establishing local development corporations]** ,
5 municipal entities, counties, county entities, regional entities, State
6 instrumentalities, and not-for-profit local economic and community
7 development entities to execute programs and initiative to stimulate
8 community and economic development**[,]** ;

9 (6) a venture, seed, or angel capital fund for start-up costs for
10 businesses developing new concepts and inventions**[,]** ;

11 (7) a fund to assist businesses, either directly or through a not-
12 for-profit or for-profit entity with expansion or transition to a new
13 business model in such areas **[as]** including, but not limited to,
14 manufacturing retooling to improve quality, to reduce production
15 costs and to train employees to apply the latest technology **[, and]** ;

16 (8) a "Main Street Business Assistance Program" to provide
17 guarantees and loans to small and mid-size businesses and not-for-
18 profit **[corporations]** entities to stimulate the economy;

19 (9) in consultation with the Department of Labor and Workforce
20 Development and the Office of the Secretary of Higher Education, a
21 fund to support and invest in innovative workforce development
22 approaches and programs, including those that could benefit
23 individuals directly, either undertaken directly by the authority or
24 through a governmental, not-for-profit, or for-profit entity, that align
25 with targeted industries as defined by the authority's board or support
26 a high-demand occupation;

27 (10) a fund to provide grants, financing, or equity to collaborations
28 between large corporations, small-to-medium sized businesses,
29 academic institutions, government entities, or not-for-profit entities,
30 where one of the purposes of the collaboration is to stimulate
31 community or economic development;

32 (11) a fund to provide grants, financing, or equity in innovation
33 centers, research centers, incubators, and accelerators, and other
34 similar innovation-oriented entities, which are focused on the
35 targeted industries as defined by the authority's board or support
36 increasing diversity and inclusion within the state's entrepreneurial
37 economy; the fund may also be used to pay for membership fees, or
38 other similar arrangements, for the authority to join or participate in
39 such innovation-oriented entities;

40 (12) a fund to provide grants or competition prizes to fund
41 initiative-based activities which stimulate growth in targeted
42 industries as defined by the authority's board or supports increasing
43 diversity and inclusion within the state's entrepreneurial economy;
44 this fund may also support not-for-profit industry, trade, and labor
45 organization initiatives; and

46 (13) a fund to provide grants or competition prizes, either directly
47 or through a not-for-profit entity, that is consistent with economic

1 development priorities as defined by the authority's board, where
 2 funds have been specifically allocated to the economic recovery fund
 3 for this purpose, including but not limited to an appropriation or
 4 transfer from another government entity).

5 The authority may promulgate rules and regulations for the
 6 effective implementation of the "Main Street Business Assistance
 7 Program." Notwithstanding any provision of the "Administrative
 8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
 9 the authority may adopt, immediately upon filing with the Office of
 10 Administrative Law, such regulations as are necessary to implement
 11 the provisions of this act, which shall be effective for a period not to
 12 exceed 12 months following enactment, and may thereafter be
 13 amended, adopted, or readopted by the authority in accordance with
 14 the requirements of the "Administrative Procedure Act," P.L.1968,
 15 c.410 (C.52:14B-1 et seq.). **During periods of emergency declared**
 16 **by the Governor and for the duration of economic disruptions due to**
 17 **the emergency, the** The authority may use the economic growth
 18 account for the planning, designing, acquiring, constructing,
 19 reconstructing, improving, equipping, and furnishing by small and
 20 medium-size businesses and not-for-profit corporations of a project
 21 as defined in section 3 of P.L.1974, c. 80 (C.34:1B-3), including, but
 22 not limited to, grants for working capital and meeting payroll
 23 requirements, upon such terms and conditions as the authority shall
 24 deem reasonable;

25 b. an economic development infrastructure program account,
 26 which shall provide for the financing and development of
 27 infrastructure and transportation projects, including but not limited
 28 to ports, terminal and transit facilities, roads and airports, parking
 29 facilities used in connection with transit facilities, and related
 30 facilities, including public-private partnerships, that are integral to
 31 economic growth;

32 c. an account for a cultural, recreational, fine and performing
 33 arts, military and veterans memorial, historic preservation project
 34 and tourism facilities and improvements program, which shall
 35 provide for the financing and development of cultural, recreational,
 36 fine and performing arts, military and veterans memorial, historic
 37 preservation and tourism projects, including partnerships with public,
 38 private and nonprofit entities;

39 d. an account, into which shall be deposited an amount not less
 40 than \$45,000,000, out of the total amounts deposited or credited to
 41 the fund from the proceeds of the sale of Economic Recovery Fund
 42 Bonds or Notes, for the financing of capital facilities for primary and
 43 secondary schools in the State for the purpose of the renovation,
 44 repair or alteration of existing school buildings, the construction of
 45 new school buildings or the conversion of existing school buildings
 46 to other instructional purposes.

47 (1) Of the amount deposited in the account, not less than
 48 \$25,000,000 shall be deposited in the "Public School Facilities Code

1 Compliance Loan Fund" established pursuant to section 4 of
2 P.L.1993, c.102 (C.34:1B-7.23).

3 (2) Of the amount deposited in the account, not less than
4 \$20,000,000 shall be deposited in the "Public School Facilities Loan
5 Assistance Fund" established pursuant to section 5 of P.L.1993, c.102
6 (C.34:1B-7.24);

7 e. an environmental cleanup assistance account, into which shall
8 be deposited an amount not less than \$10,000,000, out of the total
9 amounts deposited or credited to the fund from the proceeds of the
10 sale of Economic Recovery Fund Bonds or Notes, to provide
11 financial assistance to the persons and other entities entitled to apply
12 for financial assistance pursuant to P.L.1993, c.139; and

13 f. an account, into which shall be deposited an amount not less
14 than \$15,000,000, out of the total amounts deposited or credited to
15 the fund from the proceeds of the sale of Economic Recovery Fund
16 Bonds or Notes, for the financing of shore restoration, maintenance,
17 monitoring, protection and preservation projects pursuant to the
18 shore protection master plan prepared by the Department of
19 Environmental Protection pursuant to P.L.1978, c.157.
20 (cf: P.L.2020, c.8, s.2)

21
22 117. Section 2 of P.L.1997, c.349 (C.54:10A-5.29) is amended to
23 read as follows:

24 2. As used in sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
25 5.28 through C.54:10A-5.30):

26 "Advanced computing" means a technology used in the designing
27 and developing of computing
28 hardware and software, including innovations in designing the full
29 spectrum of hardware from hand- held calculators to super
30 computers, and peripheral equipment.

31 "Advanced materials" means materials with engineered properties
32 created through the development of specialized processing and
33 synthesis technology, including ceramics, high value-added metals,
34 electronic materials, composites, polymers, and biomaterials.

35 "Biotechnology" means the continually expanding body of
36 fundamental knowledge about the functioning of biological systems
37 from the macro level to the molecular and sub-atomic levels, as well
38 as novel products, services, technologies, and sub-technologies
39 developed as a result of insights gained from research advances
40 which add to that body of fundamental knowledge.

41 "Carbon footprint reduction technology" means a technology
42 using equipment for the commercial, institutional, and industrial
43 sectors that: increases energy efficiency; develops and delivers
44 renewable or non-carbon-emitting energy technologies; develops
45 innovative carbon emissions abatement with significant carbon
46 emissions reduction potential; or promotes measurable electricity
47 end-use energy efficiency.

1 “Control” with respect to a corporation means ownership, directly
2 or indirectly, of stock possessing 80 percent or more of the total
3 combined voting power of all classes of the stock of the corporation
4 entitled to vote; and “control” with respect to a trust means
5 ownership, directly or indirectly, of 80 percent or more of the
6 beneficial interest in the principal or income of the trust. The
7 ownership of stock in a corporation, of a capital or profits interest in
8 a partnership or association or of a beneficial interest in a trust shall
9 be determined in accordance with the rules for constructive
10 ownership of stock provided in subsection (c) of section 267 of the
11 federal Internal Revenue Code of 1986 (26 U.S.C. § 267), other than
12 paragraph (3) of subsection (c) of that section.

13 “Controlled group” means one or more chains of corporations
14 connected through stock ownership with a common parent
15 corporation if stock possessing at least 80 percent of the voting power
16 of all classes of stock of each of the corporations is owned directly
17 or indirectly by one or more of the corporations and the common
18 parent owns directly stock possessing at least 80 percent of the voting
19 power of all classes of stock of at least one of the other corporations.

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

22 “Diverse entrepreneur” means a New Jersey based business that
23 meets the criteria for a minority business or female business set forth
24 in section 2 of P.L.1983, c.482 (C.52:32-19).

25 “Electronic device technology” means a technology involving
26 microelectronics, semiconductors, electronic equipment and
27 instrumentation, radio frequency, microwave and millimeter
28 electronics, and optical and optic-electrical devices, or data and
29 digital communications and imaging devices.

30 “Information technology” means software publishing, motion
31 picture and video production, television production and post-
32 production services, telecommunications, data processing, hosting
33 and related services, custom computer programming services,
34 computer system design, computer facilities management services,
35 other computer related services, and computer training.

36 “Life sciences” means the production of medical equipment,
37 ophthalmic goods, medical or dental instruments, diagnostic
38 substances, biopharmaceutical products, or physical and biological
39 research.

40 “Medical device technology” means a technology involving any
41 medical equipment or product (other than a pharmaceutical product)
42 that has therapeutic value, diagnostic value, or both, and is regulated
43 by the federal Food and Drug Administration.

44 “Mobile communications technology” means a technology
45 involving the functionality and reliability of the transmission of voice
46 and multimedia data using a communication infrastructure via a
47 computer or a mobile device, that shall include, but not be limited to,
48 smartphones, electronic books and tablets, digital audio players,

1 motor vehicle electronics, home entertainment systems, and other
2 wireless appliances, without having connected to any physical or
3 fixed link.

4 “New Jersey based business” means a company with fewer than
5 225 employees, of whom at least 75 percent are filling a position in
6 New Jersey, that is doing business, employing or owning capital or
7 property, or maintaining an office in this State.

8 “New Jersey emerging technology business” means a company
9 with fewer than 225 employees, of whom at least 75 percent are
10 filling a position in New Jersey, that is doing business, employing or
11 owning capital or property, or maintaining an office in this State and:
12 has qualified research expenses paid or incurred for research
13 conducted in this State; conducts pilot scale manufacturing in this
14 State; or conducts technology commercialization in this State in the
15 fields of advanced computing, advanced materials, biotechnology,
16 carbon footprint reduction technology, electronic device technology,
17 information technology, life sciences, medical device technology,
18 mobile communications technology, or renewable energy
19 technology.

20 “New Jersey emerging technology business holding company”
21 means any corporation, association, firm, partnership, trust, or other
22 form of business organization, but not a natural person, which
23 directly or indirectly, owns, has the power or right to control, or has
24 the power to vote, a controlling share of the outstanding voting
25 securities of a corporation or other form of a New Jersey emerging
26 technology business.

27 “Partnership” means a syndicate, group, pool, joint venture, or
28 other unincorporated organization through or by means of which any
29 business, financial operation, or venture is carried on, and which is
30 not a trust or estate, a corporation, or a sole proprietorship.

31 “Pilot scale manufacturing” means the design, construction, and
32 testing of preproduction prototypes and models in the fields of
33 advanced computing, advanced materials, biotechnology, carbon
34 footprint reduction technology electronic device technology,
35 information technology, life sciences, medical device technology,
36 mobile communications technology, and renewable energy
37 technology, other than for commercial sale, excluding sales of
38 prototypes or sales for market testing if the total gross receipts, as
39 calculated in the manner provided in section 6 of P.L.1945, c.162
40 (C.54:10A-6), from the sales of the product, service, or process do
41 not exceed \$1,000,000.

42 “Qualified investment” means the non-refundable transfer of cash
43 to a New Jersey emerging technology business or to a New Jersey
44 emerging technology business holding company by a taxpayer that is
45 not a related person of the New Jersey emerging technology business
46 or the New Jersey emerging technology business holding company,
47 the transfer of which is in connection with either: a transaction
48 between or among the taxpayer and the New Jersey emerging

1 technology business or the New Jersey emerging technology holding
 2 company or both in exchange for stock, interests in partnerships or
 3 joint ventures, licenses (exclusive or non-exclusive), rights to use
 4 technology, marketing rights, warrants, options, or any items similar
 5 to those included herein, including, but not limited to, options or
 6 rights to acquire any of the items included herein; or a purchase,
 7 production, or research agreement between or among the taxpayer
 8 and the New Jersey emerging technology business or the New Jersey
 9 emerging technology holding company or both. “Qualified
 10 investment” also means the non-refundable transfer of cash or
 11 irrevocable contractual commitment to transfer cash to a qualified
 12 venture fund.

13 “Qualified research expenses” means qualified research expenses,
 14 as defined in section 41 of the federal Internal Revenue Code of 1986
 15 (26 U.S.C. § 41), as in effect on June 30, 1992, in the fields of
 16 advanced computing, advanced materials, biotechnology, carbon
 17 footprint reduction technology, electronic device technology,
 18 information technology, life sciences, medical device technology,
 19 mobile communications technology, or renewable energy
 20 technology.

21 “Qualified venture fund” means a venture fund required by
 22 contract to invest a minimum of 50 percent of its funds in New Jersey
 23 based businesses that the authority, in its sole discretion, based upon
 24 the qualified venture fund’s investment history, if any, its private
 25 placement memorandum and other relevant information, has
 26 determined has the capacity to make the minimum investment.

27 “Related person” means:

28 a corporation, partnership, association or trust controlled by the
 29 taxpayer;

30 an individual, corporation, partnership, association or trust that is
 31 in the control of the taxpayer;

32 a corporation, partnership, association or trust controlled by an
 33 individual, corporation, partnership, association or trust that is in the
 34 control of the taxpayer; or

35 a member of the same controlled group as the taxpayer.

36 “Renewable energy technology” means a technology involving
 37 the generation of electricity from solar energy; wind energy; wave or
 38 tidal action; geothermal energy; the combustion of gas from the
 39 anaerobic digestion of food waste and sewage sludge at a biomass
 40 generating facility; the combustion of methane gas captured from a
 41 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
 42 digester gas, biomass gas, or other renewable fuel but not powered
 43 by a fossil fuel.

44 “Tax year” means the fiscal or calendar accounting period of a
 45 taxpayer.

46 “Venture fund” means a partnership, corporation, trust, or limited
 47 liability company that invests cash in a business during the early or
 48 expansion stages of a business in exchange for an equity stake in the

1 business in,” which the investment is made. Venture firm may
 2 include a venture capital fund, a family office fund, or a corporate
 3 investor fund, provided that a professional manager administers the
 4 venture firm.

5 “Verified transfer of funds” means a non-refundable transfer of
 6 funds equal to 100 percent of the taxpayer’s qualified investment in
 7 the New Jersey emerging technology business holding company to a
 8 New Jersey emerging technology business by the New Jersey
 9 emerging technology business holding company that is accompanied
 10 by documentation, as required by the New Jersey Economic
 11 Development Authority, which provides proof of a cash transaction
 12 originating with a taxpayer and concluding with a New Jersey
 13 emerging technology business, provided that the transactions from
 14 origin to destination occur within the same tax year.

15 The definitions of “advanced computing,” “advanced materials,”
 16 “biotechnology,” carbon footprint reduction technology,” “electronic
 17 device technology,” “information technology,”” life sciences,””
 18 medical device technology,” mobile communications technology,””
 19 “New Jersey emerging technology business,” “pilot scale
 20 manufacturing,” and “renewable energy technology may be
 21 modified by regulation to conform to definitions in other programs
 22 administered by the authority.

23 (cf: P.L.2017, c.40, s.1)
 24

25 118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is amended to
 26 read as follows:

27 3. a. (1) A taxpayer, upon approval of the taxpayer’s application
 28 therefor by the New Jersey Economic Development Authority and in
 29 consultation with the director, shall be allowed a credit against the
 30 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
 31 in an amount equal to 20 percent of the qualified investment made by
 32 the taxpayer in a New Jersey emerging technology business, **[or]** in
 33 a New Jersey emerging technology business holding company that
 34 makes a verified transfer of funds to a New Jersey emerging
 35 technology business, or in a qualified venture fund; provided,
 36 however, a taxpayer may be allowed a tax credit in an amount equal
 37 to 25 percent of the qualified investment if the taxpayer satisfies one
 38 of the requirements set forth in paragraph (2) of this subsection. The
 39 value of tax credits allowed to a taxpayer pursuant to this section
 40 shall not exceed \$500,000 for the privilege period for each qualified
 41 investment made by the taxpayer.

42 (2) Subject to the limits established in paragraph (1) of this
 43 subsection, the New Jersey Economic Development Authority, in
 44 consultation with the director, shall increase the amount of a tax
 45 credit allowed pursuant to this section by five percent if the taxpayer
 46 makes a qualified investment in a New Jersey emerging technology
 47 business, or in a New Jersey emerging technology business holding
 48 company that makes a verified transfer of funds to a New Jersey

1 emerging technology business, or in a qualified venture fund, if the
2 New Jersey emerging technology business is **■**:

3 (a) **■** either located in a qualified opportunity zone pursuant to 26
4 U.S.C. § 1400Z-1, or a low-income community as defined in
5 subparagraph (e) of 26 U.S.C. § 45D **■**; **■** or

6 **■**(b)**■** certified by the State as a minority business or a women's
7 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
8 in the case of a qualified venture fund, if the qualified venture fund
9 commits by contract to invest 50 percent of its funds in diverse
10 entrepreneurs.

11 b. A credit shall not be allowed pursuant to section 1 of
12 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for
13 which a credit is allowed, or which are includable in the calculation
14 of a credit allowed, under this section.

15 Notwithstanding any other provision of law, the order of priority in
16 which the credit allowed by this section and any other credits allowed
17 by law may be taken shall be as prescribed by the director.

18 c. Except as provided in subsection d. of this section, the amount
19 of credit otherwise allowable under this section which cannot be
20 applied for the privilege period against tax liability otherwise due for
21 that privilege period may either be carried over, if necessary, to the
22 15 privilege periods following the privilege period for which the
23 credit was allowed or, at the election of the taxpayer, be claimed as
24 and treated as an overpayment for the purposes of R.S.54:49-15,
25 provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1)
26 shall not apply.

27 d. A taxpayer may not carry over any amount of credit allowed
28 under subsection a. of this section to a privilege period during which
29 a corporate acquisition with respect to which the taxpayer was a
30 target corporation occurred or during which the taxpayer was a party
31 to a merger or a consolidation, or to any subsequent privilege period,
32 if the credit was allowed for a privilege period prior to the year of
33 acquisition, merger or consolidation, except that if in the case of a
34 corporate merger or corporate consolidation the taxpayer can
35 demonstrate, through the submission of a copy of the plan of merger
36 or consolidation and such other evidence as may be required by the
37 director, the identity of the constituent corporation which was the
38 acquiring person, a credit allowed to the acquiring person may be
39 carried over by the taxpayer. As used in this subsection, "acquiring
40 person" means the constituent corporation the stockholders of which
41 own the largest proportion of the total voting power in the surviving
42 or consolidated corporation after the merger or consolidation.

43 e. The Executive Director of the New Jersey Economic
44 Development Authority, in consultation with the director, shall
45 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
46 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
47 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28

1 through C.54:10A-5.30) and section 4 of P.L.2013, c.14 (C.54A:4-
2 13), including, but not limited to: examples of and the determination
3 of qualified investments of which applicants shall provide
4 documentation with their tax credit application; the promulgation of
5 procedures and forms necessary to apply for a credit; provisions for
6 recapture in the event a taxpayer receives a credit on the basis of its
7 commitment to transfer cash to a qualified venture fund and it does
8 not fund its commitment; and provisions for credit applicants to be
9 charged an initial application fee and ongoing service fees to cover
10 the administrative costs related to the credit.

11 The amount of credits approved by the Executive Director of the
12 New Jersey Economic Development Authority, and in consultation
13 with the director, pursuant to subsection a. of this section and
14 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not
15 exceed a cumulative total of **【\$25,000,000】** \$35,000,000 in any
16 calendar year to apply against the tax imposed pursuant to section 5
17 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
18 “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. If the
19 cumulative amount of credits allowed to taxpayers in a calendar year
20 exceeds the amount of credits available in that year, then taxpayers
21 who have first applied for and have not been allowed a credit amount
22 for that reason shall be allowed, in the order in which they have
23 submitted an application, the amount of the tax credit on the first day
24 of the next succeeding calendar year in which tax credits under this
25 section and section 4 of P.L.2013, c.14 (C.54A:4-13) are not in
26 excess of the amount of credits available.
27 (cf: P.L.2017, c.40, s.2)

28
29 119. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to read
30 as follows:

31 4. a. (1) A taxpayer, upon approval of the taxpayer's application
32 therefor by the New Jersey Economic Development Authority, and
33 in consultation with the director, shall be allowed a credit against the
34 tax otherwise due for the taxable year under the "New Jersey Gross
35 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
36 percent of the qualified investment made by the taxpayer in a New
37 Jersey emerging technology business, **【or】** in a New Jersey emerging
38 technology business holding company that makes a verified transfer
39 of funds to a New Jersey emerging technology business, or in a
40 qualified venture fund; provided, however, a taxpayer may be
41 allowed a tax credit in an amount equal to 25 percent of the qualified
42 investment if the taxpayer satisfies one of the requirements set forth
43 in paragraph (2) of this subsection. The value of tax credits allowed
44 to a taxpayer pursuant to this section shall not exceed \$500,000 for
45 the taxable year for each qualified investment made by the taxpayer.

46 (2) Subject to the limits established in paragraph (1) of this
47 subsection, the New Jersey Economic Development Authority, in
48 consultation with the director, shall increase the amount of a tax

1 credit allowed pursuant to this section by five percent if the taxpayer
2 makes a qualified investment in a New Jersey emerging technology
3 business, **【or】** in a New Jersey emerging technology business
4 holding company that makes a verified transfer of funds to a New
5 Jersey emerging technology business, or in a qualified venture fund,
6 if the New Jersey emerging technology business is **【**:

7 (a) **】** either located in a qualified opportunity zone pursuant to 26
8 U.S.C. § 1400Z-1, or a low-income community as defined in
9 subparagraph (e) of 26 U.S.C. § 45D **【;】** or

10 **【(b)】** certified by the State as a minority business or a women's
11 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
12 in the case of a qualified venture fund, if the qualified venture fund
13 commits by contract to invest 50 percent of its funds in diverse
14 entrepreneurs.

15 b. The amount of the credit allowed pursuant to this section shall
16 be applied against the tax otherwise due under the "New Jersey Gross
17 Income Tax Act," N.J.S.54A:1-1 et seq., after all other credits and
18 payments. If the credit exceeds the amount of tax liability otherwise
19 due, that amount of excess shall be an overpayment for the purposes
20 of N.J.S.54A:9-7, provided, however, that subsection (f) of
21 N.J.S.54A:9-7 shall not apply.

22 c. (1) A partnership shall not be allowed a credit under this section
23 directly, but the amount of credit of a taxpayer in respect of a
24 distributive share of partnership income under the "New Jersey Gross
25 Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined by
26 allocating to the taxpayer that proportion of the credit acquired by
27 the partnership that is equal to the taxpayer's share, whether or not
28 distributed, of the total distributive income or gain of the partnership
29 for its taxable year ending within or with the taxpayer's taxable year.
30 For the purposes of subsection b. of this section, the amount of tax
31 liability that would be otherwise due of a taxpayer is that proportion
32 of the total liability of the taxpayer that the taxpayer's share of the
33 partnership income or gain included in gross income bears to the total
34 gross income of the taxpayer.

35 (2) The credit for a corporation that has made a valid election as
36 a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173
37 (C.54:10A-5.22) may be applied by the shareholders of the S
38 corporation against the tax liability otherwise due under the "New
39 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., provided that
40 the amount of credit that may be used by a shareholder of the S
41 corporation shall be determined by allocating to each shareholder of
42 the S corporation that proportion of the tax credit of the S corporation
43 that is equal to the shareholder's proportionate share of the S
44 corporation, whether or not distributed, of the total distributive
45 income or gain of the S corporation for its tax period ending with or
46 within the shareholder's tax period, and the credit may be applied by

1 the shareholders against the tax liability otherwise due pursuant to
2 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

3 d. The Executive Director of the New Jersey Economic
4 Development Authority, in consultation with the director, shall
5 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
6 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
7 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28
8 through C.54:10A-5.30) and this section, including, but not limited
9 to: examples of and the determination of qualified investments of
10 which applicants shall provide documentation with their tax credit
11 application; the promulgation of procedures and forms necessary to
12 apply for a credit; provisions for recapture in the event a taxpayer
13 receives a credit on the basis of its commitment to transfer cash to a
14 qualified venture fund and it does not fund its commitment; and
15 provisions for credit applicants to be charged an initial application
16 fee and ongoing service fees to cover the administrative costs related
17 to the credit.

18 The amount of credits approved by the Executive Director of the
19 New Jersey Economic Development Authority and the Director of
20 the Division of Taxation in the Department of the Treasury, pursuant
21 to subsection a. of this section and pursuant to section 3 of P.L.1997,
22 c.349 (C.54:10A-5.30), shall not exceed a cumulative total of
23 ~~【\$25,000,000】~~ \$35,000,000 in any calendar year to apply against the
24 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
25 and the tax imposed pursuant to the "New Jersey Gross Income Tax
26 Act," N.J.S.54A:1-1 et seq. If the cumulative amount of credits
27 allowed to taxpayers in a calendar year exceeds the amount of credits
28 available in that year, then taxpayers who have first applied for and
29 have not been allowed a credit amount for that reason shall be
30 allowed, in the order in which they have submitted an application,
31 the amount of the tax credit on the first day of the next succeeding
32 calendar year in which tax credits under this section and section 3 of
33 P.L.1997, c.349 (C.54:10A-5.30) are not in excess of the amount of
34 credits available.

35 e. As used in this section:

36 "Advanced computing" means a technology used in the designing
37 and developing of computing hardware and software, including
38 innovations in designing the full spectrum of hardware from hand-
39 held calculators to super computers, and peripheral equipment.

40 "Advanced materials" means materials with engineered properties
41 created through the development of specialized processing and
42 synthesis technology, including ceramics, high value-added metals,
43 electronic materials, composites, polymers, and biomaterials.

44 "Biotechnology" means the continually expanding body of
45 fundamental knowledge about the functioning of biological systems
46 from the macro level to the molecular and sub-atomic levels, as well
47 as novel products, services, technologies, and sub-technologies

1 developed as a result of insights gained from research advances
2 which add to that body of fundamental knowledge.

3 "Carbon footprint reduction technology" means a technology
4 using equipment for the commercial, institutional, and industrial
5 sectors that: increases energy efficiency; develops and delivers
6 renewable or non-carbon-emitting energy technologies; develops
7 innovative carbon emissions abatement with significant carbon
8 emissions reduction potential; or promotes measurable electricity
9 end-use energy efficiency.

10 "Control" with respect to a corporation, means ownership, directly
11 or indirectly, of stock possessing 80 percent or more of the total
12 combined voting power of all classes of the stock of the corporation
13 entitled to vote; and "control," with respect to a trust, means
14 ownership, directly or indirectly, of 80 percent or more of the
15 beneficial interest in the principal or income of the trust. The
16 ownership of stock in a corporation, of a capital or profits interest in
17 a partnership or association or of a beneficial interest in a trust shall
18 be determined in accordance with the rules for constructive
19 ownership of stock provided in subsection (c) of section 267 of the
20 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than
21 paragraph (3) of subsection (c) of that section.

22 "Controlled group" means one or more chains of corporations
23 connected through stock ownership with a common parent
24 corporation if stock possessing at least 80 percent of the voting power
25 of all classes of stock of each of the corporations is owned directly
26 or indirectly by one or more of the corporations and the common
27 parent owns directly stock possessing at least 80 percent of the voting
28 power of all classes of stock of at least one of the other corporations.

29 "Director" means the Director of the Division of Taxation in the
30 Department of the Treasury.

31 "Diverse entrepreneur" means a New Jersey based business that
32 meets the criteria for a minority business or female business set forth
33 in section 2 of P.L.1983, c.482 (C.52:32-19).

34 "Electronic device technology" means a technology involving
35 microelectronics, semiconductors, electronic equipment and
36 instrumentation, radio frequency, microwave and millimeter
37 electronics, and optical and optic-electrical devices, or data and
38 digital communications and imaging devices.

39 "Information technology" means software publishing, motion
40 picture and video production, television production and post-
41 production services, telecommunications, data processing, hosting
42 and related services, custom computer programming services,
43 computer system design, computer facilities management services,
44 other computer related services, and computer training.

45 "Life sciences" means the production of medical equipment,
46 ophthalmic goods, medical or dental instruments, diagnostic
47 substances, biopharmaceutical products, or physical and biological
48 research.

1 "Medical device technology" means a technology involving any
2 medical equipment or product (other than a pharmaceutical product)
3 that has therapeutic value, diagnostic value, or both, and is regulated
4 by the federal Food and Drug Administration.

5 "Mobile communications technology" means a technology
6 involving the functionality and reliability of the transmission of voice
7 and multimedia data using a communication infrastructure via a
8 computer or a mobile device, that shall include, but not be limited to,
9 smartphones, electronic books and tablets, digital audio players,
10 motor vehicle electronics, home entertainment systems, and other
11 wireless appliances, without having connected to any physical or
12 fixed link.

13 "New Jersey based business" means a company with fewer than
14 225 employees, of whom at least 75 percent are filling a position in
15 New Jersey, that is doing business, employing or owning capital or
16 property, or maintaining an office in this State.

17 "New Jersey emerging technology business" means a company
18 with fewer than 225 employees, of whom at least 75 percent are
19 filling a position in New Jersey, that is doing business, employing or
20 owning capital or property, or maintaining an office in this State and:
21 has qualified research expenses paid or incurred for research
22 conducted in this State; conducts pilot scale manufacturing in this
23 State; or conducts technology commercialization in this State in the
24 fields of advanced computing, advanced materials, biotechnology,
25 carbon footprint reduction technology, electronic device technology,
26 information technology, life sciences, medical device technology,
27 mobile communications technology, or renewable energy
28 technology.

29 "New Jersey emerging technology business holding company"
30 means any corporation, association, firm, partnership, trust or other
31 form of business organization, but not a natural person, which
32 directly or indirectly, owns, has the power or right to control, or has
33 the power to vote, a controlling share of the outstanding voting
34 securities of a corporation or other form of a New Jersey emerging
35 technology business.

36 "Partnership" means a syndicate, group, pool, joint venture, or
37 other unincorporated organization through or by means of which any
38 business, financial operation, or venture is carried on, and which is
39 not a trust or estate, a corporation, or a sole proprietorship.

40 "Pilot scale manufacturing" means design, construction, and
41 testing of preproduction prototypes and models in the fields of
42 advanced computing, advanced materials, biotechnology, carbon
43 footprint reduction technology electronic device technology,
44 information technology, life sciences, medical device technology,
45 mobile communications technology, or renewable energy
46 technology, other than for commercial sale, excluding sales of
47 prototypes or sales for market testing if the total gross receipts, as
48 calculated in the manner provided in section 6 of P.L.1945, c.162

(C.54:10A-6), from the sales of the product, service, or process do not exceed \$1,000,000.

"Qualified investment" means the non-refundable transfer of cash to a New Jersey emerging technology business or to a New Jersey emerging technology business holding company by a taxpayer that is not a related person of the New Jersey emerging technology business or the New Jersey emerging technology business holding company, the transfer of which is in connection with either: a transaction between or among the taxpayer and the New Jersey emerging technology business or the New Jersey emerging technology holding company or both in exchange for stock, interests in partnerships or joint ventures, licenses (exclusive or non-exclusive), rights to use technology, marketing rights, warrants, options, or any items similar to those included herein, including, but not limited to, options or rights to acquire any of the items included herein; or a purchase, production, or research agreement between or among the taxpayer and the New Jersey emerging technology business or the New Jersey emerging technology holding company or both. "Qualified investment" also means the non-refundable transfer of cash or irrevocable contractual commitment to transfer cash to a qualified venture fund.

"Qualified research expenses" means qualified research expenses, as defined in section 41 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992, in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, information technology, life sciences, medical device technology, mobile communications technology, or renewable energy technology.

"Qualified venture fund" means a venture fund required by contract to invest a minimum of 50 percent of its funds in New Jersey based businesses that the authority, in its sole discretion, based upon the qualified venture fund's investment history, if any, its private placement memorandum and other relevant information, has determined has the capacity to make the minimum investment.

"Related person" means:

a corporation, partnership, association or trust controlled by the taxpayer;

an individual, corporation, partnership, association or trust that is in the control of the taxpayer;

a corporation, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in the control of the taxpayer; or

a member of the same controlled group as the taxpayer.

"Renewable energy technology" means a technology involving the generation of electricity from solar energy; wind energy; wave or tidal action; geothermal energy; the combustion of gas from the anaerobic digestion of food waste and sewage sludge at a biomass generating facility; the combustion of methane gas captured from a

1 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
2 digester gas, biomass gas, or other renewable fuel but not powered
3 by a fossil fuel.

4 “Venture fund” means a partnership, corporation, trust, or limited
5 liability company that invests cash in a business during the early or
6 expansion stages of a business in exchange for an equity stake in the
7 business in,” which the investment is made. Venture firm may
8 include a venture capital fund, a family office fund, or a corporate
9 investor fund, provided that a professional manager administers the
10 venture firm.

11 "Verified transfer of funds" means a non-refundable transfer of
12 funds equal to 100 percent of the taxpayer's qualified investment in
13 the New Jersey emerging technology business holding company to a
14 New Jersey emerging technology business by the New Jersey
15 emerging technology business holding company that is accompanied
16 by documentation, as required by the New Jersey Economic
17 Development Authority, which provides proof of a cash transaction
18 originating with a taxpayer and concluding with a New Jersey
19 emerging technology business, provided that the transactions from
20 origin to destination occur within the same taxable year.

21 The definitions of “advanced computing,” “advanced materials,”
22 “biotechnology,” carbon footprint reduction technology,” “electronic
23 device technology,” “information technology,”” life sciences,””
24 medical device technology,” mobile communications technology,””
25 “New Jersey emerging technology business,” “pilot scale
26 manufacturing,” and “renewable energy technology may be
27 modified by regulation to conform to definitions in other programs
28 administered by the authority.

29 (cf: P.L.2019, c.145, s.3)

30
31 120. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to
32 read as follows:

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

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

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

12 a corporation that is subject to the tax imposed pursuant to section
13 5 of P.L.1945, c.162 (C.54:10A-5);

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

17 a partnership;

18 an S corporation;

19 a limited liability company; or

20 a non-profit corporation.

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

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

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

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

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

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

46 d. any of the foregoing.

47 In addition to the foregoing, in a Garden State Growth Zone, the
48 following qualify as a capital investment: any development,

1 redevelopment, and relocation costs, including, but not limited to,
2 site acquisition if made within 24 months of application to the
3 authority, engineering, legal, accounting, and other professional
4 services required; and relocation, environmental remediation, and
5 infrastructure improvements for the project area, including, but not
6 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
7 sidewalk construction or repair.

8 In addition to the foregoing, if a business acquires or leases a
9 qualified business facility, the capital investment made or acquired
10 by the seller or owner, as the case may be, if pertaining primarily to
11 the premises of the qualified business facility, shall be considered a
12 capital investment by the business and, if pertaining generally to the
13 qualified business facility being acquired or leased, shall be allocated
14 to the premises of the qualified business facility on the basis of the
15 gross leasable area of the premises in relation to the total gross
16 leasable area in the qualified business facility. The capital
17 investment described herein may include any capital investment
18 made or acquired within 24 months prior to the date of application so
19 long as the amount of capital investment made or acquired by the
20 business, any affiliate of the business, or any owner after the date of
21 application equals at least 50 percent of the amount of capital
22 investment, allocated to the premises of the qualified business facility
23 being acquired or leased on the basis of the gross leasable area of the
24 premises in relation to the total gross leasable area in the qualified
25 business facility made or acquired prior to the date of application.

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

29 "Commitment period" means the period of time that is 1.5 times
30 the eligibility period.

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

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

39 "Disaster recovery project" means a project located on property
40 that has been wholly or substantially damaged or destroyed as a result
41 of a federally-declared disaster which, after utilizing all disaster
42 funds available from federal, State, county, and local funding
43 sources, demonstrates to the satisfaction of the authority that access
44 to additional funding authorized pursuant to the "New Jersey
45 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
46 489p et al.), is necessary to complete the redevelopment project, and
47 which is located within the qualified incentive area and has been
48 determined by the authority to be in an area appropriate for

1 development and in need of economic development incentive
2 assistance.

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

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

16 "Eligibility period" means the period in which a business may
17 claim a tax credit under the Grow New Jersey Assistance Program,
18 beginning with the tax period in which the authority accepts
19 certification of the business that it has met the capital investment and
20 employment requirements of the Grow New Jersey Assistance
21 Program and extending thereafter for a term of not more than 10
22 years, with the term to be determined solely at the discretion of the
23 applicant.

24 "Eligible position" or "full-time job" means a full-time position in
25 a business in this State which the business has filled with a full-time
26 employee.

27 "Full-time employee" means a person:

28 a. who is employed by a business for consideration for at least
29 35 hours a week, or who renders any other standard of service
30 generally accepted by custom or practice as full-time employment;
31 or

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

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

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

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

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

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

15 35 hours of employment per week at a qualified business facility
16 shall constitute one "full-time employee," regardless of whether or
17 not the hours of work were performed by one or more persons.

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

32 "Full-time employee" shall not include any person who works as
33 an independent contractor or on a consulting basis for the business.

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

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

46 "Garden State Growth Zone" or "growth zone" means the four
47 New Jersey cities with the lowest median family income based on the
48 2009 American Community Survey from the US Census, (Table 708.

1 Household, Family, and Per Capita Income and Individuals, and
 2 Families Below Poverty Level by City: 2009); a municipality which
 3 contains a Tourism District as established pursuant to section 5 of
 4 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
 5 Reinvestment Development Authority; or an aviation district.

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

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

16 "Incentive effective date" means the date **the authority issues a**
 17 **tax credit based on** a business submits the documentation
 18 **submitted by a business** required pursuant to paragraph (1) of
 19 subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a form
 20 satisfactory to the authority.

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

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

38 "Mega project" means:

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

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

45 (2) at which more than 1,000 full-time employees of the business
 46 are created or retained;

47 b. a qualified business facility located in an aviation district
 48 housing a business in the aviation industry, in a Garden State Growth

1 Zone, or in a priority area housing the United States headquarters and
2 related facilities of an automobile manufacturer, either:

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

6 (2) at which more than 1,000 full-time employees of the business
7 are created or retained;

8 c. a qualified business facility located in an urban transit hub
9 housing a business of any kind, having a capital investment in excess
10 of \$50,000,000, and at which more than 250 full-time employees of
11 the business are created or retained;

12 d. a project located in an area designated in need of
13 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) prior
14 to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
15 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
16 Ocean, or Salem counties having a capital investment in excess of
17 \$20,000,000, and at which more than 150 full-time employees of the
18 business are created or retained; or

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

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

28 (2) at which more than 1,000 full-time employees of the business
29 are created or retained.

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

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

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

47 "New full-time job" means an eligible position created by the
48 business at the qualified business facility that did not previously exist

1 in this State. For the purposes of determining a number of new full-
2 time jobs, the eligible positions of an affiliate shall be considered
3 eligible positions of the business.

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

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

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

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

14 b. a 15-mile radius of the outermost boundary of each marine
15 terminal facility established, acquired, constructed, rehabilitated, or
16 improved by the South Jersey Port District established pursuant to
17 "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-
18 1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

16 "Qualified incentive area" means:

17 a. an aviation district;

18 b. a port district;

19 c. a distressed municipality or urban transit hub municipality;

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

22 (a) Planning Area 1 (Metropolitan);

23 (b) Planning Area 2 (Suburban); or

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

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

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

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

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

45 (6) located within a Garden State Growth Zone;

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

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

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

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

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

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

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

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

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

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

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country, or eliminated. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business. For the purposes of the certifications and annual reports required in the incentive agreement pursuant to subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the extent an eligible position that was the basis of the award no longer exists, a business shall include

1 as a retained full-time job a new eligible position that is filled by a
2 full-time employee provided that the position is included in the order
3 of date of hire and is not the basis for any other incentive award. For
4 a project located in a Garden State Growth Zone which qualified for
5 the "Municipal Rehabilitation and Economic Recovery Act,"
6 P.L.2002, c.43 (C.52:27BBB-1 et al.), retained full-time job shall
7 include any employee previously employed in New Jersey and
8 transferred to the new location in the Garden State Growth Zone
9 which qualified for the "Municipal Rehabilitation and Economic
10 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

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

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

17 "Targeted industry" means any industry identified from time to
18 time by the authority which shall initially include advanced
19 transportation and logistics, advanced manufacturing, aviation,
20 autonomous vehicle and zero-emission vehicle research or
21 development, clean energy, life sciences, hemp processing,
22 information and high technology, finance and insurance, professional
23 services, film and digital media, and non-retail food and beverage
24 businesses, including food innovation and other innovative industries
25 that disrupt current technologies or business models.

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

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

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

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

1 "Urban transit hub municipality" means a municipality: a. which
2 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
3 seq.), or which has continued to be a qualified municipality
4 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
5 or more of the value of real property was exempt from local property
6 taxation during tax year 2006. The percentage of exempt property
7 shall be calculated by dividing the total exempt value by the sum of
8 the net valuation which is taxable and that which is tax exempt.
9 (cf: P.L.2018, c.120, s.1)

10
11 121. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to
12 read as follows:

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

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

20 b. The eligibility period of the tax credits, including the first year
21 for which the tax credits may be claimed.

22 c. Personnel information that will enable the authority to
23 administer the program.

24 d. A requirement that the applicant maintain the project at a
25 location in New Jersey for the commitment period, with at least the
26 minimum number of full-time employees as required by this
27 program, except as otherwise agreed to pursuant to subsection h. of
28 section 6 of P.L.2011, c.159 (C.34:1B-247) and a provision to permit
29 the authority to recapture all or part of any tax credits awarded, at its
30 discretion, if the business does not remain in compliance with this
31 provision for the required term, and in the instance of the business
32 terminating an existing incentive agreement in order to participate in
33 an incentive agreement authorized pursuant to the "New Jersey
34 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
35 489p et al.), such permitted recapture may be calculated to recognize
36 the period of time that the business was in compliance prior to
37 termination.

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

43 f. A provision permitting an audit of the payroll records of the
44 business from time to time, as the authority deems necessary.

45 g. A provision which permits the authority to amend the
46 agreement.

1 h. A provision establishing the conditions under which the
2 agreement may be terminated.

3 (cf: P.L.2013, c.161, s.9)
4

5 122. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to
6 read as follows:

7 5. a. The New Jersey Economic Development Authority, in
8 consultation with the State Treasurer, shall establish an Economic
9 Redevelopment and Growth Grant program for the purpose of
10 encouraging redevelopment projects in qualifying economic
11 redevelopment and growth grant incentive areas that do not qualify
12 as such areas solely by virtue of being a transit village, through the
13 provision of incentive grants to reimburse developers for certain
14 project financing gap costs.

15 b. (1) A developer shall submit an application for a State incentive
16 grant prior to July 1, 2019, except: (a) a developer of a qualified
17 residential project or a mixed use parking project seeking an award
18 of credits toward the funding of its incentive grant for a project
19 restricted under category (viii) of subparagraph (b) of paragraph (3)
20 of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall
21 submit an incentive grant application prior to December 31, 2021 and
22 (b) a developer seeking an award of credits toward the funding of its
23 incentive grant under subparagraphs (f) and (g) of paragraph (3) of
24 subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall
25 submit an incentive grant application prior to December 31, 2021. A
26 developer that submits an application for a State incentive grant shall
27 indicate on the application whether it is also applying for a local
28 incentive grant. Tax credits awarded to developers who apply after
29 the effective date of P.L. , c. (C.)(pending before the
30 Legislature as this bill) under subparagraphs (f) and (g) of paragraph
31 (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)
32 shall not exceed \$200,000,000 subject to the limitations of
33 subparagraphs (f) and (g) of that paragraph.

34 (2) When an applicant indicates it is also applying for a local
35 incentive grant, the authority shall forward a copy of the application
36 to the municipality wherein the redevelopment project is to be located
37 for approval by municipal ordinance.

38 c. An application for a State incentive grant shall be reviewed and
39 approved by the authority. The authority shall not approve an
40 application for a State incentive grant unless the application was
41 submitted prior to July 1, 2019, except: (1) the authority shall not
42 approve an application for a State incentive grant by a developer of
43 a qualified residential project or a mixed use parking project seeking
44 an award of credits toward the funding of its incentive grant for a
45 project restricted under category (viii) of subparagraph (b) of
46 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
47 (C.52:27D-489f) unless the application was submitted prior to
48 December 31, 2021 and (2) the authority shall not approve an

1 application for a State incentive grant by a developer under
2 subparagraphs (f) and (g) of paragraph (3) of subsection b. of section
3 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was
4 submitted prior to December 31, 2021.

5 d. A developer shall not be required to purchase pinelands
6 development credits under the "Pinelands Protection Act," P.L.1979,
7 c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
8 management plan, or any other rule or regulation adopted pursuant to
9 that act in connection with any approval or relief obtained related to
10 a redevelopment project located in an aviation district on or after the
11 effective date of P.L.2018, c.120, except if seeking to develop in
12 permanently protected open space pursuant to the Pinelands
13 Protection Act. The provisions of this subsection shall not apply to
14 a developer of a qualified residential project.

15 (cf: P.L.2018, c.120, s.6)

16
17 123. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
18 read as follows:

19 6. a. Up to the limits established in subsection b. of this section
20 and in accordance with a redevelopment incentive grant agreement,
21 beginning upon the receipt of occupancy permits for any portion of
22 the redevelopment project, or upon any other event evidencing
23 project completion as set forth in the incentive grant agreement, the
24 State Treasurer shall pay to the developer incremental State revenues
25 directly realized from businesses operating at the site of the
26 redevelopment project from the following taxes: the Corporation
27 Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the
28 tax imposed on marine insurance companies pursuant to R.S.54:16-1
29 et seq., the tax imposed on insurers generally, pursuant to P.L.1945,
30 c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public
31 utilities gross receipts tax and public utility excise tax imposed on
32 sewerage and water corporations pursuant to P.L.1940, c.5
33 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric,
34 natural gas, telecommunications, water and sewage utilities, and
35 cable television companies under the jurisdiction of the New Jersey
36 Board of Public Utilities, or comparable entity, except for those
37 tariffs, fees, or taxes related to societal benefits charges assessed
38 pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges
39 paid for compliance with the "Global Warming Response Act,"
40 P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility
41 assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162
42 (C.48:2-21.34), and the sales and use taxes on public utility and cable
43 television services and commodities, the tax derived from net profits
44 from business, a distributive share of partnership income, or a pro
45 rata share of S corporation income under the "New Jersey Gross
46 Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a
47 business at the site of a redevelopment project that is required to
48 collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966,

1 c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30
2 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and
3 equipment, or materials for the remediation, the construction of new
4 structures at the site of a redevelopment project, the hotel and motel
5 occupancy fee imposed pursuant to section 1 of P.L.2003, c.114
6 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3
7 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property
8 at the site of the redevelopment project and paid to the State Treasurer
9 for use by the State, that is not credited to the "Shore Protection
10 Fund" or the "Neighborhood Preservation Nonlapsing Revolving
11 Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to
12 section 4 of P.L.1968, c.49 (C.46:15-8). Any developer shall be
13 allowed to assign their ability to apply for the tax credit under this
14 subsection to a non-profit organization with a mission dedicated to
15 attracting investment and completing development and
16 redevelopment projects in a Garden State Growth Zone. The non-
17 profit organization may make an application on behalf of a developer
18 which meets the requirements for the tax credit, or a group of non-
19 qualifying developers, such that these will be considered a unified
20 project for the purposes of the incentives provided under this section.

21 b. (1) Up to an average of 75 percent of the projected annual
22 incremental revenues or 85 percent of the projected annual
23 incremental revenues in a Garden State Growth Zone may be pledged
24 towards the State portion of an incentive grant.

25 (2) In the case of a qualified residential project or a project
26 involving university infrastructure, if the authority determines that
27 the estimated amount of incremental revenues pledged towards the
28 State portion of an incentive grant is inadequate to fully fund the
29 amount of the State portion of the incentive grant, then in lieu of an
30 incentive grant based on the incremental revenues, the developer
31 shall be awarded tax credits equal to the full amount of the incentive
32 grant.

33 (3) In the case of a mixed use parking project, if the authority
34 determines that the estimated amount of incremental revenues
35 pledged towards the State portion of an incentive grant is inadequate
36 to fully fund the amount of the State portion of the incentive grant,
37 then, in lieu of an incentive grant based on the incremental revenues,
38 the developer shall be awarded tax credits equal to the full amount of
39 the incentive grant.

40 The value of all credits approved by the authority pursuant to
41 paragraphs (2) and (3) of this subsection shall not exceed
42 **[\$823,000,000] \$1,043,000,000**, of which:

43 (a) \$250,000,000 shall be restricted to qualified residential
44 projects within Atlantic, Burlington, Camden, Cape May,
45 Cumberland, Gloucester, Ocean, and Salem counties, of which
46 \$175,000,000 of the credits shall be restricted to the following
47 categories of projects: (i) qualified residential projects located in a
48 Garden State Growth Zone located within the aforementioned

1 counties; and (ii) mixed use parking projects located in a Garden
2 State Growth Zone or urban transit hub located within the
3 aforementioned counties; (iii) and \$75,000,000 of the credits shall be
4 restricted to qualified residential projects in municipalities with a
5 2007 Municipal Revitalization Index of 400 or higher as of the date
6 of enactment of the "New Jersey Economic Opportunity Act of
7 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within the
8 aforementioned counties;

9 (b) \$395,000,000 shall be restricted to the following categories of
10 projects: (i) qualified residential projects located in urban transit hubs
11 that are commuter rail in nature that otherwise do not qualify under
12 subparagraph (a) of this paragraph; (ii) qualified residential projects
13 located in Garden State Growth Zones that do not qualify under
14 subparagraph (a) of this paragraph; (iii) mixed use parking projects
15 located in urban transit hubs or Garden State Growth Zones that do
16 not qualify under subparagraph (a) of this paragraph, provided
17 however, an urban transit hub shall be allocated no more than
18 \$25,000,000 for mixed use parking projects; (iv) qualified residential
19 projects which are disaster recovery projects that otherwise do not
20 qualify under subparagraph (a) of this paragraph; (v) qualified
21 residential projects in SDA municipalities located in Hudson County
22 that were awarded State Aid in State Fiscal Year 2013 through the
23 Transitional Aid to Localities program and otherwise do not qualify
24 under subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits
25 shall be restricted to mixed use parking projects in Garden State
26 Growth Zones which have a population in excess of 125,000 and do
27 not qualify under subparagraph (a) of this paragraph; (vii)
28 \$40,000,000 of credits shall be restricted to qualified residential
29 projects that include a theater venue for the performing arts and do
30 not qualify under subparagraph (a) of this paragraph, which projects
31 are located in a municipality with a population of less than 100,000
32 according to the latest federal decennial census, and within which
33 municipality is located an urban transit hub and a campus of a public
34 research university, as defined in section 1 of P.L.2009, c.308
35 (C.18A:3B-46); and (viii) **["\$105,000,000"]** \$125,000,000 of credits
36 shall be restricted to qualified residential projects and mixed use
37 parking projects in Garden State Growth Zones having a population
38 in excess of 125,000 and do not qualify under subparagraph (a) of
39 this paragraph;

40 (c) \$87,000,000 shall be restricted to the following categories of
41 projects: (i) qualified residential projects located in distressed
42 municipalities, deep poverty pockets, highlands development credit
43 receiving areas or redevelopment areas, otherwise not qualifying
44 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
45 use parking projects that do not qualify under subparagraph (a) or (b)
46 of this paragraph, and which are used by an independent institution
47 of higher education, a school of medicine, a nonprofit hospital
48 system, or any combination thereof; provided, however, that

1 \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
2 parking projects that do not qualify under subparagraph (a) or (b) of
3 this paragraph;

4 (d) (i) \$16,000,000 shall be restricted to qualified residential
5 projects that are located within a qualifying economic redevelopment
6 and growth grant incentive area otherwise not qualifying under
7 subparagraph (a), (b), or (c) of this paragraph; and

8 (ii) an additional \$50,000,000 shall be restricted to qualified
9 residential projects which, as of the effective date of P.L.2016, c.51,
10 are located in a city of the first class with a population in excess of
11 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-
12 To-Market Project from the United States Department of Housing
13 and Urban Development, and for which an application for the award
14 of tax credits under this subsection was submitted prior to January 1,
15 2016; **and**

16 (e) \$25,000,000 shall be restricted to projects involving university
17 infrastructure;

18 (f) \$150,000,000 shall be restricted to applications submitted after
19 the effective date of P.L. , c. (C.)(pending before the
20 Legislature as this bill) for projects which are predominantly
21 commercial and contain 100,000 or more square feet of office and
22 retail space, or industrial space for purchase or lease and may include
23 a parking component; and

24 (g) \$50,000,000 shall be restricted to applications submitted after
25 the effective date of P.L. , c. (C.)(pending before the
26 Legislature as this bill) for residential projects in any county of the
27 State.

28 **[(f)] (h)** For subparagraphs (a) through (d) of this paragraph, not
29 more than \$40,000,000 of credits shall be awarded to any qualified
30 residential project in a deep poverty pocket or distressed municipality
31 and not more than \$20,000,000 of credits shall be awarded to any
32 other qualified residential project. The developer of a qualified
33 residential project seeking an award of credits towards the funding of
34 its incentive grant shall submit an incentive grant application prior to
35 July 1, 2016 and if approved after September 18, 2013, the effective
36 date of P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a
37 temporary certificate of occupancy for the project no later than **July**
38 **28, 2021** December 31, 2023. The developer of a mixed use parking
39 project seeking an award of credits towards the funding of its
40 incentive grant pursuant to subparagraph (c) of this paragraph and if
41 approved after the effective date of P.L.2015, c.217, shall submit a
42 temporary certificate of occupancy for the project no later than **July**
43 **28, 2021** December 31, 2023. The developer of a qualified
44 residential project or a mixed use parking project seeking an award
45 of credits toward the funding of its incentive grant for a project
46 restricted under categories (vi) and (viii) of subparagraph (b) of this
47 paragraph shall submit an incentive grant application prior to July 1,

1 2019 or, in the case of a project restricted under category (viii) of
2 subparagraph (b) of this paragraph, December 31, 2021, and if
3 approved after the effective date of P.L.2017, c.59, shall submit a
4 temporary certificate of occupancy for the project no later than [July
5 28, 2022] December 31, 2023 provided that the municipality in
6 which the project is located shall have submitted to the chief
7 executive officer of the authority a letter of support identifying up to
8 six projects prior to July 1, 2018. The letter of support is to contain a
9 project scope for each of the projects and may be supplemented or
10 amended from time to time until July 1, 2019 or, in the case of a
11 project restricted under category (viii) of subparagraph (b) of this
12 paragraph, December 31, 2021. Applications for tax credits pursuant
13 to this subsection relating to an ancillary infrastructure project or
14 infrastructure improvement in the public right-of-way, or both, shall
15 be accompanied with a letter of support relating to the project or
16 improvement by the governing body or agency in which the project
17 is located. Credits awarded to a developer pursuant to this subsection
18 shall be subject to the same financial and related analysis by the
19 authority, the same term of the grant, and the same mechanism for
20 administering the credits, and shall be utilized or transferred by the
21 developer as if the credits had been awarded to the developer
22 pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for
23 qualified residential projects thereunder. No portion of the revenues
24 pledged pursuant to the "New Jersey Economic Opportunity Act of
25 2013," P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to
26 withholding or retainage for adjustment, in the event the developer
27 or taxpayer waives its rights to claim a refund thereof.

28 (i) The developer of a project seeking an award of credits for a
29 project restricted under subparagraphs (f) and (g) of this paragraph
30 shall submit an incentive grant application prior to December 31,
31 2021, and if approved after the effective date of P.L. , c. (C.)
32 (pending before the Legislature as this bill), shall submit a temporary
33 certificate of occupancy for the project no later than December 31,
34 2024. In addition to the requirements for an award of credits set forth
35 in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be eligible
36 to receive an award of credits for a project restricted under
37 subparagraphs (f) and (g) of this paragraph only if the developer
38 demonstrates to the authority at that time of application that: (i) the
39 project shall comply with minimum environmental and sustainability
40 standards; (ii) the project shall comply with the authority's
41 affirmative action requirements, adopted pursuant to section 4 of
42 P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker employed by the
43 developer or subcontractor of a developer working at the project shall
44 be paid not less than \$15 per hour or 120 percent of the minimum
45 wage fixed under subsection a. of section 5 of P.L.1966, c.113
46 (C.34:11-56a4), whichever is higher; and (iv) during the eligibility
47 period, each worker employed to perform construction work or
48 building services work at the project shall be paid not less than the

1 prevailing wage rate for the worker's craft or trade, as determined by
2 the Commissioner of Labor and Workforce Development pursuant to
3 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
4 (C.34:11-56.58 et seq.).

5 Prior to the board considering an application submitted by a
6 developer for a project restricted under subparagraphs (f) and (g) of
7 this paragraph, the Department of Labor and Workforce
8 Development, the Department of Environmental Protection, and the
9 Department of the Treasury shall each report to the chief executive
10 officer of the authority whether the developer is in substantial good
11 standing with the respective department, or has entered into an
12 agreement with the respective department that includes a practical
13 corrective action plan for the developer. The developer, or an
14 authorized agent of the developer, shall certify to the authority that
15 all factual assertions made in the developer's application are true
16 under the penalty of perjury. If at any time the authority determines
17 that the developer made a material misrepresentation on the
18 developer's application, the developer shall forfeit the award of
19 credits and the authority shall recapture any tax credits awarded to
20 the developer.

21 (4) A developer may apply to the Director of the Division of
22 Taxation in the Department of the Treasury and the chief executive
23 officer of the authority for a tax credit transfer certificate, if the
24 developer is awarded a tax credit pursuant to paragraph (2) or
25 paragraph (3) of this subsection, covering one or more years, in lieu
26 of the developer being allowed any amount of the credit against the
27 tax liability of the developer. The tax credit transfer certificate, upon
28 receipt thereof by the developer from the director and the chief
29 executive officer of the authority, may be sold or assigned, in full or
30 in part, to any other person who may have a tax liability pursuant to
31 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
32 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
33 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
34 provided to the developer shall include a statement waiving the
35 developer's right to claim that amount of the credit against the taxes
36 that the developer has elected to sell or assign. The sale or assignment
37 of any amount of a tax credit transfer certificate allowed under this
38 paragraph shall not be exchanged for consideration received by the
39 developer of less than 75 percent of the transferred credit amount
40 before considering any further discounting to present value that may
41 be permitted. Any amount of a tax credit transfer certificate used by
42 a purchaser or assignee against a tax liability shall be subject to the
43 same limitations and conditions that apply to the use of the credit by
44 the developer who originally applied for and was allowed the credit.

45 c. All administrative costs associated with the incentive grant
46 shall be assessed to the applicant and be retained by the State
47 Treasurer from the annual incentive grant payments.

1 d. The incremental revenue for the revenues listed in subsection
2 a. of this section shall be calculated as the difference between the
3 amount collected in any fiscal year from any eligible revenue source
4 included in the State redevelopment incentive grant agreement, less
5 the revenue increment base for that eligible revenue.

6 e. The municipality is authorized to collect any information
7 necessary to facilitate grants under this program and remit that
8 information in order to assist in the calculation of incremental
9 revenue.

10 (cf: P.L.2018, c.44, s.2)

11
12 124. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
13 read as follows:

14 8. a. (1) The authority, in consultation with the State Treasurer,
15 shall promulgate an incentive grant application form and procedure
16 for the Economic Redevelopment and Growth Grant program.

17 (2) (a) The Local Finance Board, in consultation with the
18 authority, shall develop a minimum standard incentive grant
19 application form for municipal Economic Redevelopment and
20 Growth Grant programs.

21 (b) Through regulation, the authority shall establish standards for
22 redevelopment projects seeking State or local incentive grants based
23 on the green building manual prepared by the Commissioner of
24 Community Affairs pursuant to section 1 of P.L.2007, c.132
25 (C.52:27D-130.6), regarding the use of renewable energy, energy-
26 efficient technology, and non-renewable resources in order to reduce
27 environmental degradation and encourage long-term cost reduction.

28 b. Within each incentive grant application, a developer shall
29 certify information concerning:

- 30 (1) the status of control of the entire redevelopment project site;
31 (2) all required State and federal government permits that have
32 been issued for the redevelopment project, or will be issued pending
33 resolution of financing issues;
34 (3) local planning and zoning board approvals, as required, for
35 the redevelopment project;
36 (4) estimates of the revenue increment base, the eligible revenues
37 for the project, and the assumptions upon which those estimates are
38 made.

39 c. (1) With regard to State tax revenues proposed to be pledged for
40 an incentive grant the authority and the State Treasurer shall review
41 the project costs, evaluate and validate the project financing gap
42 estimated by the developer, and conduct a State fiscal impact analysis
43 to ensure that the overall public assistance provided to the project,
44 except with regards to a qualified residential project, a mixed use
45 parking project, or a project involving university infrastructure, will
46 result in net benefits to the State including, without limitation, both
47 direct and indirect economic benefits and non-financial community
48 revitalization objectives, including but not limited to, the promotion

1 of the use of public transportation in the case of the ancillary
2 infrastructure project portion of any transit project.

3 (2) With regard to local incremental revenues proposed to be
4 pledged for an incentive grant the authority and the Local Finance
5 Board shall review the project costs, and except with respect to an
6 application by a municipal redeveloper, evaluate and validate the
7 project financing gap projected by the developer, and conduct a local
8 fiscal impact analysis to ensure that the overall public assistance
9 provided to the project, except with regards to a qualified residential
10 project, a mixed use parking project, or a project involving university
11 infrastructure, will result in net benefits to the municipality wherein
12 the redevelopment project is located including, without limitation,
13 both direct and indirect economic benefits and non-financial
14 community revitalization objectives, including but not limited to, the
15 promotion of the use of public transportation in the case of the
16 ancillary infrastructure project portion of any transit project.

17 (3) The authority, State Treasurer, and Local Finance Board may
18 act cooperatively to administer and review applications, and shall
19 consult with the Office of State Planning on matters concerning State,
20 regional, and local development and planning strategies.

21 (4) The costs of the aforementioned reviews shall be assessed to
22 the applicant as an application fee, except for applications submitted
23 on or after January 1, 2018, but before June 30, 2018, which are
24 amended after the effective date of P.L. , c. (C.) (pending
25 before the Legislature as this bill), the authority may waive fees.

26 (5) A developer who has already applied for an incentive grant
27 award prior to the effective date of the "New Jersey Economic
28 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
29 but who has not yet been approved for the grant, or has not executed
30 an agreement with the authority, may proceed under that application
31 or seek to amend the application or reapply for an incentive grant
32 award for the same project or any part thereof for the purpose of
33 availing himself or herself of any more favorable provisions of the
34 Economic Redevelopment and Growth Grant program established
35 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
36 P.L.2013, c.161 (C.52:27D-489p et al.), except that projects with
37 costs exceeding \$200,000,000 shall not be eligible for revised
38 percentage caps under subsection d. of section 19 of P.L.2013, c.161
39 (C.52:27D-489i).

40 (cf: P.L.2015, c.242, s.3)

41

42 125. R.S.54:50-8 is amended to read as follows:

43 54:50-8. a. The records and files of the director respecting the
44 administration of the State Uniform Tax Procedure Law or of any
45 State tax law shall be considered confidential and privileged and
46 neither the director nor any employee engaged in the administration
47 thereof or charged with the custody of any such records or files, nor
48 any former officer or employee, nor any person who may have

1 secured information therefrom under subsection d., e., f., g., p., [or]
2 q., or r. of R.S.54:50-9 or any other provision of State law, shall
3 divulge, disclose, use for their own personal advantage, or examine
4 for any reason other than a reason necessitated by the performance of
5 official duties any information obtained from the said records or files
6 or from any examination or inspection of the premises or property of
7 any person. Neither the director nor any employee engaged in such
8 administration or charged with the custody of any such records or
9 files shall be required to produce any of them for the inspection of
10 any person or for use in any action or proceeding except when the
11 records or files or the facts shown thereby are directly involved in an
12 action or proceeding under the provisions of the State Uniform Tax
13 Procedure Law or of the State tax law affected, or where the
14 determination of the action or proceeding will affect the validity or
15 amount of the claim of the State under some State tax law, or in any
16 lawful proceeding for the investigation and prosecution of any
17 violation of the criminal provisions of the State Uniform Tax
18 Procedure Law or of any State tax law.

19 b. The prohibitions of this section, against unauthorized
20 disclosure, use or examination by any present or former officer or
21 employee of this State or any other individual having custody of such
22 information obtained pursuant to the explicit authority of State law,
23 shall specifically include, without limitation, violations involving the
24 divulgence or examination of any information from or any copy of a
25 federal return or federal return information required by New Jersey
26 law to be attached to or included in any New Jersey return. Any
27 person violating this section by divulging, disclosing or using
28 information shall be guilty of a crime of the fourth degree. Any
29 person violating this section by examining records or files for any
30 reason other than a reason necessitated by the performance of official
31 duties shall be guilty of a disorderly persons offense.

32 c. Whenever records and files are used in connection with the
33 prosecution of any person for violating the provisions of this section
34 by divulging, disclosing or using records or files or examining
35 records and files for any reason other than a reason necessitated by
36 the performance of official duties, the defendant shall be given access
37 to those records and files. The court shall review such records and
38 files in camera, and that portion of the court record containing the
39 records and files shall be sealed by the court.

40 (cf: P.L.2019, c.367, s.1)

41

42 126. R.S.54:50-9 is amended to read as follows:

43 54:50-9. Nothing herein contained shall be construed to prevent:

44 a. The delivery to a taxpayer or the taxpayer's duly authorized
45 representative of a copy of any report or any other paper filed by the
46 taxpayer pursuant to the provisions of this subtitle or of any such
47 State tax law;

- 1 b. The publication of statistics so classified as to prevent the
2 identification of a particular report and the items thereof;
- 3 c. The director, in the director's discretion and subject to
4 reasonable conditions imposed by the director, from disclosing the
5 name and address of any licensee under any State tax law, unless
6 expressly prohibited by such State tax law;
- 7 d. The inspection by the Attorney General or other legal
8 representative of this State of the reports or files relating to the claim
9 of any taxpayer who shall bring an action to review or set aside any
10 tax imposed under any State tax law or against whom an action or
11 proceeding has been instituted in accordance with the provisions
12 thereof;
- 13 e. The examination of said records and files by the Comptroller,
14 State Auditor or State Commissioner of Finance, or by their
15 respective duly authorized agents;
- 16 f. The furnishing, at the discretion of the director, of any
17 information contained in tax reports or returns or any audit thereof or
18 the report of any investigation made with respect thereto, filed
19 pursuant to the tax laws, to the taxing officials of any other state, the
20 District of Columbia, the United States and the territories thereof,
21 providing said jurisdictions grant like privileges to this State and
22 providing such information is to be used for tax purposes only;
- 23 g. The furnishing, at the discretion of the director, of any
24 material information disclosed by the records or files to any law
25 enforcing authority of this State who shall be charged with the
26 investigation or prosecution of any violation of the criminal
27 provisions of this subtitle or of any State tax law;
- 28 h. The furnishing by the director to the State agency responsible
29 for administering the Child Support Enforcement program pursuant
30 to Title IV-D of the federal Social Security Act, Pub.L.93-647 (42
31 U.S.C. s.651 et seq.), with the names, home addresses, social security
32 numbers and sources of income and assets of all absent parents who
33 are certified by that agency as being required to pay child support,
34 upon request by the State agency and pursuant to procedures and in
35 a form prescribed by the director;
- 36 i. The furnishing by the director to the Board of Public Utilities
37 any information contained in tax information statements, reports or
38 returns or any audit thereof or a report of any investigation made with
39 respect thereto, as may be necessary for the administration of
40 P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162
41 (C.54:10A-5.25 et al.);
- 42 j. The furnishing by the director to the Director of the Division
43 of Alcoholic Beverage Control in the Department of Law and Public
44 Safety any information contained in tax information statements,
45 reports or returns or any audit thereof or a report of any investigation
46 made with respect thereto, as may be relevant, in the discretion of the
47 director, in any proceeding conducted for the issuance, suspension or

- 1 revocation of any license authorized pursuant to Title 33 of the
2 Revised Statutes;
- 3 k. The inspection by the Attorney General or other legal
4 representative of this State of the reports or files of any tobacco
5 product manufacturer, as defined in section 2 of P.L.1999, c.148
6 (C.52:4D-2), for any period in which that tobacco product
7 manufacturer was not or is not in compliance with subsection a. of
8 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
9 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2),
10 for the purpose of facilitating the administration of the provisions of
11 P.L.1999, c.148 (C.52:4D-1 et seq.);
- 12 l. The furnishing, at the discretion of the director, of
13 information as to whether a contractor or subcontractor holds a valid
14 business registration as defined in section 1 of P.L.2001, c.134
15 (C.52:32-44);
- 16 m. The furnishing by the director to a State agency as defined in
17 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees
18 subject to suspension for non-payment of State tax indebtedness
19 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);
- 20 n. The release to the United States Department of the Treasury,
21 Bureau of Financial Management Service, or its successor of relevant
22 taxpayer information for purposes of implementing a reciprocal
23 collection and offset of indebtedness agreement entered into between
24 the State of New Jersey and the federal government pursuant to
25 section 1 of P.L.2006, c.32 (C.54:49-12.7);
- 26 o. The examination of said records and files by the
27 Commissioner of Health and Senior Services, the Commissioner of
28 Human Services, the Medicaid Inspector General, or their respective
29 duly authorized agents, pursuant to section 5 of P.L.2007, c.217
30 (C.26:2H-18.60e), section 3 of P.L.1968, c.413 (C.30:4D-3), or
31 section 5 of P.L.2005, c.156 (C.30:4J-12);
- 32 p. The furnishing at the discretion of the director of employer
33 provided wage and tax withholding information contained in tax
34 reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and
35 54A:7-7, to the designated municipal officer of a municipality
36 authorized to impose an employer payroll tax pursuant to the
37 provisions of Article 5 (Employer Payroll Tax) of the "Local Tax
38 Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the
39 limited purpose of verifying the payroll information reported by
40 employers subject to the employer payroll tax;
- 41 q. The furnishing by the director to the Commissioner of Labor
42 and Workforce Development of any information, including, but not
43 limited to, tax information statements, reports, audit files, returns, or
44 reports of any investigation for the purpose of labor market research
45 or assisting in investigations pursuant to any State wage, benefit or
46 tax law as enumerated in section 1 of P.L.2009, c.194 (C.34:1A-
47 1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

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1 Sections 35-42 of the bill is the “Food Desert Relief Act” providing
2 tax credits in order to incentivize businesses to establish and retain
3 new supermarkets and grocery stores in food desert communities.
4 Sections 43-53 is the "New Jersey Community-Anchored
5 Development Act" providing tax credits to anchor institutions to
6 incentivize the expansion of targeted industries in the State and the
7 continued development of certain areas of the State.
8 Sections 54-67 is the "New Jersey Aspire Program Act" providing
9 tax credits to encourage redevelopment projects by covering certain
10 project financing gap costs.
11 Sections 68-81 is the “Emerge Program Act” providing tax credits to
12 encourage economic development, job creation, and the retention of
13 significant numbers of jobs in imminent danger of leaving the State.
14 Sections 82-88 is the "Main Street Recovery Finance Program Act"
15 providing grants, loans, and loan guarantees to small businesses.
16 Sections 92-97 is the "New Jersey Ignite Act" a public-private
17 partnership providing start-up rent grants to collaborative
18 workspaces to support the early months of an early stage innovation
19 economy business’s rent at the collaborative workspace.
20 Section 99-105 is the “Economic Development Authority Integrity
21 and Protection Act" to create an Office of the Economic
22 Development Inspector General, which will operate independent of
23 the oversight or management of the of the EDA, and to require
24 employment of Chief Compliance Officer to manage the Division of
25 Portfolio Management and Compliance in the EDA.
26 Sections 106-107 allow tax credits for new hires involved in the
27 manufacture of personal protective.
28 Sections 108-124 amend existing tax credit programs and
29 requirements.