

# SENATE, No. 4163

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 22, 2021

**Sponsored by:**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Morris, Somerset and Union)**

**Senator ROBERT W. SINGER**

**District 30 (Monmouth and Ocean)**

**Co-Sponsored by:**

**Senator O'Scanlon**

**SYNOPSIS**

"Virtual Currency and Blockchain Regulation Act."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/2/2021)**

1 AN ACT concerning virtual currency and blockchain, and amending  
2 and supplementing various parts of the statutory law.

3

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

6

7 1. (New section) This act shall be known and may be cited as  
8 the "Virtual Currency and Blockchain Regulation Act."

9

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

12 "Affiliate" means any person that directly or indirectly controls,  
13 is controlled by, or is under common control with, another person.

14 "Blockchain" means a digital ledger or database which is  
15 chronological, consensus-based, decentralized and mathematically  
16 verified in nature.

17 "Commissioner" means the Commissioner of Banking and  
18 Insurance.

19 "Consumptive" means a circumstance when a token is  
20 exchangeable for, or provided for the receipt of, services, software,  
21 content or real or tangible personal property, including rights of  
22 access to services, content or real or tangible personal property.

23 "Department" means the Department of Banking and Insurance.

24 "Developer" means the person primarily responsible for creating  
25 an open blockchain token or otherwise designing the token,  
26 including by executing the technological processes necessary to  
27 create the token.

28 "Digital asset" means a representation of economic, proprietary  
29 or access rights that is stored in a computer readable format, and  
30 includes digital consumer assets, digital securities and virtual  
31 currency. As used in P.L. , c. (C. )(pending before the  
32 Legislature as this bill), the terms digital consumer asset, digital  
33 security, and virtual currency shall be mutually exclusive.

34 "Digital consumer asset" means a digital asset that is used or  
35 bought primarily for consumptive, personal or household purposes  
36 and includes:

37 (1) An open blockchain token constituting intangible personal  
38 property as otherwise provided by law; and

39 (2) Any other digital asset which is not virtual currency or a  
40 digital security.

41 "Digital security" means a digital asset which constitutes a  
42 security, as defined in P.L.1967, c.93 (C.49:3-49), but shall exclude  
43 digital consumer assets and virtual currency.

44 "Facilitator" means a person who, as a business, makes open  
45 blockchain tokens pursuant to subsection a. of section 2 of P.L. ,  
46 c. (C. )(pending before the Legislature as this bill) available

**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 for resale to the public after a token has been purchased by an initial  
2 buyer.

3 "Financial investment" means a contract, transaction or  
4 arrangement where a person invests money in a common enterprise  
5 and is led to expect profits solely from the efforts of a promoter or a  
6 third party.

7 "Open blockchain token" means a digital unit that is:

8 (1) created:

9 (a) in response to the verification or collection of a specified  
10 number of transactions relating to a digital ledger or database;

11 (b) by deploying computer code to a digital ledger or database,  
12 which may include a blockchain, that allows for the creation of  
13 digital tokens or other units; or

14 (c) using a combination of the methods specified in paragraphs  
15 (a) and (b) of this paragraph.

16 (2) recorded to a digital ledger or database, which may include a  
17 blockchain; and

18 (3) capable of being traded or transferred between persons  
19 without an intermediary or custodian of value.

20 "Open blockchain token" shall not include virtual currency or  
21 digital security as those terms are defined in this section.

22 "Person" means any individual, partnership, corporation,  
23 association, trust, or other business combination or entity, however  
24 organized.

25 "Seller" means a person who makes an open blockchain token  
26 available for purchase to an initial buyer.

27 "Virtual currency" means a digital asset that is:

28 (1) used as a medium of exchange, unit of account or store of  
29 value; and

30 (2) not recognized as legal tender by the United States  
31 government.

32

33 3. (New section) a. An open blockchain token shall be  
34 intangible personal property if it meets the following  
35 characteristics:

36 (1) the predominant purpose of the token is consumptive;

37 (2) the developer or seller did not market the token to the initial  
38 buyer as a financial investment; and

39 (3) at least one of the following is satisfied:

40 (a) the developer or seller reasonably believed that it sold the  
41 token to the initial buyer for a consumptive purpose;

42 (b) the token has a consumptive purpose that is available at or  
43 near the time of sale and can be used at or near the time of sale for a  
44 consumptive purpose;

45 (c) the initial buyer of the token is prohibited by the developer  
46 or seller of the token from reselling the token until the token is  
47 available to be used for a consumptive purpose; or

- 1 (d) the developer or seller takes other reasonable precautions to  
2 prevent an initial buyer from purchasing the token as a financial  
3 investment.
- 4 b. Before making an open blockchain token available for sale,  
5 the developer or seller of a token, or the registered agent of the  
6 developer or seller, shall electronically file a notice of intent with  
7 the Department of the Banking and Insurance and pay a filing fee of  
8 \$1,000. The notice of intent shall contain the name of the person  
9 acting as a developer or seller, the contact information of the  
10 person, or the registered agent of the person and comprehensive  
11 details, to be determined by the Commissioner of Banking and  
12 Insurance, on the open blockchain token made available for sale. A  
13 form shall be made available by the department for this purpose,  
14 which shall include a secure electronic form conspicuously posted  
15 on the department's Internet website. A developer, seller and the  
16 registered agent of these persons, if applicable, shall have a  
17 continuing duty to update the contact information provided on a  
18 notice of intent as long as the open blockchain token associated  
19 with the notice is actively being sold.
- 20 c. A facilitator shall:
- 21 (1) before making any token available for resale to the public,  
22 confirm with the department that a notice of intent has been filed  
23 pursuant to subsection b. of this section;
- 24 (2) at all times, have a reasonable and good faith belief that a  
25 token subject to resale conforms to the requirements of subsection  
26 a. of this section; and
- 27 (3) take reasonably prompt action to terminate the resale of a  
28 token that does not conform to the requirements of subsection a. of  
29 this section.
- 30 d. A willful failure by a developer, seller or facilitator to  
31 comply with the duties imposed by P.L. , c. (C. )(pending  
32 before the Legislature as this bill) shall constitute an unlawful  
33 practice under P.L.1960, c.39 (C.56:8-1 et seq.), and shall be  
34 subject to all remedies and penalties available pursuant to P.L.1960,  
35 c.39 (C.56:8-1 et seq.) in addition to any other remedies or penalties  
36 provided by law. A developer, seller or facilitator is subject to all  
37 applicable criminal statutes.
- 38 e. The commissioner may refer the following to appropriate  
39 State or federal agencies for investigation, criminal prosecution,  
40 civil penalties and other appropriate enforcement actions:
- 41 (1) suspected violations of this section; and
- 42 (2) the developer, seller or facilitator of either an open  
43 blockchain token which conforms to the requirements of this  
44 section or another digital asset which substantially resembles an  
45 open blockchain token, but which, in the determination of the  
46 commissioner, is being sold for financial investment or fraudulent  
47 purposes.

1       4. (New section) a. Digital assets shall be classified in the  
2 following manner:

3       (1) Digital consumer assets are intangible personal property and  
4 shall be considered general intangibles, as defined in N.J.S.12A:9-  
5 102;

6       (2) Digital securities are intangible personal property and shall  
7 be considered securities, as defined in N.J.S.12A:8-102, and  
8 investment property, as defined in N.J.S.12A:9-102; and

9       (3) Virtual currency is intangible personal property and shall be  
10 considered money, notwithstanding N.J.S.12A:1-201.

11       b. Consistent with N.J.S.12A:8-102, a digital asset may be  
12 treated as a financial asset, pursuant to a written agreement with the  
13 owner of the digital asset. If treated as a financial asset, the digital  
14 asset shall remain intangible personal property.

15       c. Classification of digital assets under this section shall be  
16 construed in a manner to give the greatest effect to  
17 P.L. , c. (C. )(pending before the Legislature as this bill), but  
18 shall not be construed to apply to any other asset.

19

20       5. (New section) a. Notwithstanding the financing statement  
21 requirement specified by N.J.S.12A:9-310, perfection of a security  
22 interest in a digital asset may be achieved through control, as  
23 defined in subsection e. of this section. A security interest held by a  
24 secured party having control of a digital asset has priority over a  
25 security interest held by a secured party that does not have control  
26 of the asset.

27       b. Before a secured party may take control of a digital asset  
28 under this section, the secured party shall enter into a control  
29 agreement with the debtor. A control agreement may also set forth  
30 the terms under which a secured party may pledge its security  
31 interest in the digital asset as collateral for another transaction.

32       c. A secured party may file a financing statement with the  
33 Division of Revenue and Enterprise Services, including to perfect a  
34 security interest in proceeds from a digital asset pursuant to  
35 N.J.S.12A:9-315.

36       d. Notwithstanding any law, rule, or regulation to the contrary,  
37 a transferee shall take a digital asset free of any security interest  
38 two years after the transferee takes the asset for value and does not  
39 have actual notice of an adverse claim. This subsection shall only  
40 apply to a security interest perfected by a method other than control.

41       e. Perfection by control creates a possessory security interest in  
42 a digital asset and does not require physical possession. For  
43 purposes of this section, a digital asset is located within the State if  
44 the asset is held by a custodian, debtor or secured party that is  
45 physically located within the State.

46       f. As used in this section:

47       "Control" means:

1 (1) a secured party, or an agent, custodian, fiduciary or trustee  
2 of the party, has the exclusive legal authority to conduct a  
3 transaction relating to a digital asset, including by means of a  
4 private key or the use of a multi signature arrangement authorized  
5 by the secured party; or

6 (2) a smart contract created by a secured party which has the  
7 exclusive legal authority to conduct a transaction relating to a  
8 digital asset.

9 "Multi signature arrangement" means a system of access control  
10 relating to a digital asset for the purposes of preventing  
11 unauthorized transactions relating to the asset, in which two or  
12 more private keys are required to conduct a transaction, or any  
13 substantially similar analogue.

14 "Private key" means a unique element of cryptographic data, or  
15 any substantially similar analogue, which is:

16 (1) held by a person;

17 (2) paired with a unique, publicly available element of  
18 cryptographic data; and

19 (3) associated with an algorithm that is necessary to carry out an  
20 encryption or decryption required to execute a transaction.

21 "Smart Contract" means:

22 (1) an automated transaction conducted or performed, in whole  
23 or in part, by electronic means or electronic records, in which the  
24 acts or records of one or both parties are not reviewed by an  
25 individual in the ordinary course in forming a contract, performing  
26 under an existing contract or fulfilling an obligation required by the  
27 transaction; or

28 (2) any substantially similar analogue, which is comprised of  
29 code, script or programming language that executes the terms of an  
30 agreement, and which may include taking custody of and  
31 transferring an asset, or issuing executable instructions for these  
32 actions, based on the occurrence or nonoccurrence of specified  
33 conditions.

34

35 6. (New section) a. A bank may provide custodial services  
36 consistent with this section upon providing 60 days written notice to  
37 the Commissioner of the Department of Banking and Insurance.  
38 The provisions of this section are cumulative and not exclusive as  
39 an optional framework for enhanced supervision of digital asset  
40 custody. If a bank elects to provide custodial services under this  
41 section, it shall comply with all provisions of this section.

42 b. A bank may serve as a qualified custodian under federal  
43 Securities and Exchange Commission rules established pursuant to  
44 17 C.F.R. s.275.206(4). In performing custodial services under this  
45 section, a bank shall:

46 (1) implement all accounting, account statement, internal  
47 control, notice and other standards specified by applicable state or  
48 federal law and regulations for custodial services;

- 1 (2) maintain information technology best practices relating to  
2 digital assets held in custody. The commissioner may specify  
3 required best practices by rule;
- 4 (3) fully comply with applicable federal anti-money laundering,  
5 customer identification and beneficial ownership requirements; and
- 6 (4) take other actions necessary to carry out this section, which  
7 may include exercising fiduciary powers similar to those permitted  
8 to national banks and ensuring compliance with federal law  
9 governing digital assets classified as commodities.
- 10 c. A bank providing custodial services shall enter into an  
11 agreement with an independent public accountant to conduct an  
12 examination conforming to the requirements of 17 C.F.R.  
13 s.275.206(4) 2(a)(4) and (6), at the cost of the bank. The  
14 accountant shall transmit the results of the examination to the  
15 commissioner within 120 days of the examination and may file the  
16 results with the federal Securities and Exchange Commission as its  
17 rules may provide. Material discrepancies in an examination shall  
18 be reported to the commissioner within one business day. The  
19 commissioner shall review examination results upon receipt within  
20 a reasonable time and during any regular examination conducted  
21 pursuant to P.L.1948, c.67 (C.17:9A-260).
- 22 d. Digital assets held in custody pursuant to this section shall  
23 not be depository liabilities or assets of the bank. A bank, or a  
24 subsidiary, may register as an investment adviser, investment  
25 company or broker dealer as necessary. A bank shall maintain  
26 control over a digital asset while in custody. A customer shall elect,  
27 pursuant to a written agreement with the bank, one of the following  
28 relationships for each digital asset held in custody:
- 29 (1) Custody under a bailment as a nonfungible or fungible asset.  
30 Assets held under this paragraph shall be strictly segregated from  
31 other assets; or
- 32 (2) Custody under a bailment pursuant to subsection e. of this  
33 section.
- 34 e. If a customer makes an election under subsection d. of this  
35 section, the bank may, based only on customer instructions,  
36 undertake transactions with the digital asset. A bank maintains  
37 control pursuant to subsection d. of this section by entering into an  
38 agreement with the counterparty to a transaction which contains a  
39 time for return of the asset. The bank shall not be liable for any loss  
40 suffered with respect to a transaction under this subsection, except  
41 for liability consistent with fiduciary and trust powers as a  
42 custodian under this section.
- 43 f. A bank and a customer shall agree in writing regarding the  
44 source code version the bank will use for each digital asset, and the  
45 treatment of each asset under chapter 8 of Title 12A of the New  
46 Jersey Statutes. Any ambiguity under this subsection shall be  
47 resolved in favor of the customer.

- 1 g. A bank shall provide clear, written notice to each customer,  
2 and require written acknowledgement, of the following:
- 3 (1) prior to the implementation of any updates, material source  
4 code updates relating to digital assets held in custody, except in  
5 emergencies which may include security vulnerabilities;
- 6 (2) the heightened risk of loss from transactions under  
7 subsection e. of this section;
- 8 (3) that some risk of loss as a pro rata creditor exists as the  
9 result of custody as a fungible asset or custody under paragraph (2)  
10 of subsection d. of this section;
- 11 (4) that custody under paragraph (2) of subsection d. of this  
12 section may not result in the digital assets of the customer being  
13 strictly segregated from other customer assets; and
- 14 (5) that the bank is not liable for losses suffered under  
15 subsection e. of this section, except for liability consistent with  
16 fiduciary and trust powers as a custodian under this section.
- 17 h. A bank and a customer shall agree in writing to a time  
18 period within which the bank shall return a digital asset held in  
19 custody under this section. If a customer makes an election under  
20 paragraph (2) of subsection d. of this section, then the bank and the  
21 customer may also agree in writing to the form in which the digital  
22 asset shall be returned.
- 23 i. All ancillary or subsidiary proceeds relating to digital assets  
24 held in custody under this section shall accrue to the benefit of the  
25 customer, except as specified by a written agreement with the  
26 customer. The bank shall not collect ancillary or subsidiary  
27 proceeds, unless the collection is disclosed in writing. A customer  
28 who makes an election under paragraph (1) of subsection d. of this  
29 section may withdraw the digital asset in a form that permits the  
30 collection of the ancillary or subsidiary proceeds.
- 31 j. A bank shall not authorize or permit rehypothecation of  
32 digital assets under this section. The bank shall not engage in any  
33 activity to use or exercise discretionary authority relating to a  
34 digital asset except based on customer instructions.
- 35 k. A bank shall not take any action under this section which  
36 would likely impair the solvency or the safety and soundness of the  
37 bank, as determined by the commissioner after considering the  
38 nature of custodial services customary in the banking industry.
- 39 l. As used in this section:
- 40 "Bank" has the meaning ascribed to it in P.L.1948, c.67  
41 (C.17:9A-1).
- 42 "Custodial services" means the safekeeping and management of  
43 customer currency and digital assets through the exercise of  
44 fiduciary and trust powers under this section as a custodian, and  
45 includes fund administration and the execution of customer  
46 instructions.



1       7. Section 2 of P.L.1998, c.14 (C.17:15C-2) is amended to read  
2 as follows:

3       2. As used in **【this act】** P.L.1998, c.14 (C.17:15C-1 et seq.):

4       "Applicant" means a person filing an application for a license  
5 under **【this act】** P.L.1998, c.14 (C.17:15C-1 et seq.).

6       "Authorized delegate" means an entity authorized by the licensee  
7 pursuant to the provisions of section 17 of **【this act】** P.L.1998, c.14  
8 (C.17:15C-17) to sell or issue payment instruments or engage in the  
9 business of transmitting money on behalf of a licensee.

10       "Commissioner" means the Commissioner of Banking and  
11 Insurance.

12       "Control" means ownership of, or the power to vote, 25 percent  
13 or more of the outstanding voting securities of a licensee or  
14 controlling person. For purposes of determining the percentage of a  
15 licensee controlled by any person, there shall be aggregated with  
16 the person's interest the interest of any other person controlled by  
17 that person or by any spouse, parent, or child of that person.

18       "Controlling person" means any person in control of a licensee.

19       "Department" means the Department of Banking and Insurance.

20       "Executive officer" means the licensee's president, chairman of  
21 the executive committee, senior officer responsible for the  
22 licensee's business in this State, chief financial officer and any other  
23 person who performs similar functions.

24       "Foreign money transmitter" means a person who engages, in  
25 this State, only in the business of the receipt of money for  
26 transmission or transmitting money to locations outside of the  
27 United States by any and all means, including but not limited to  
28 payment instrument, wire, facsimile, electronic transfer, or  
29 otherwise for a fee, commission or other benefit.

30       "Key shareholder" means any person, or group of persons acting  
31 in concert, who is the owner of 25 percent or more of any voting  
32 class of an applicant's stock.

33       "Licensee" means a person licensed under **【this act】** P.L.1998,  
34 c.14 (C.17:15C-1 et seq.).

35       "Location" means a place of business at which activities  
36 regulated by **【this act】** P.L.1998, c.14 (C.17:15C-1 et seq.) occur.

37       "Material litigation" means any litigation that, according to  
38 generally accepted accounting principles, is deemed significant to  
39 any applicant's or licensee's financial health and would be required  
40 to be referenced in that entity's annual audited financial statements,  
41 report to shareholders or similar documents.

42       "Money" means a medium of exchange authorized or adopted by  
43 the United States or a foreign government as a part of its currency  
44 and that is customarily used and accepted as a medium of exchange  
45 in the country of issuance.

46       "Money transmitter" means a person who engages in this State in  
47 the business of:

- 1 (1) the sale or issuance of payment instruments for a fee,  
2 commission or other benefit;
- 3 (2) the receipt of money for transmission or transmitting money  
4 within the United States or to locations abroad by any and all  
5 means, including but not limited to payment instrument, wire,  
6 facsimile, electronic transfer, or otherwise for a fee, commission or  
7 other benefit; or
- 8 (3) the receipt of money for obligors for the purpose of paying  
9 obligors' bills, invoices or accounts for a fee, commission or other  
10 benefit paid by the obligor.
- 11 "Outstanding payment instrument" means any payment  
12 instrument issued by the licensee which has been sold in the United  
13 States directly by the licensee or any payment instrument issued by  
14 the licensee which has been sold by an authorized delegate of the  
15 licensee in the United States, which has been reported to the  
16 licensee as having been sold, and which has not yet been paid by or  
17 for the licensee.
- 18 "Payment instrument" means any check, draft, money order,  
19 travelers check or other instrument or written order for the  
20 transmission or payment of money, sold or issued to one or more  
21 persons, whether or not the instrument is negotiable. The term  
22 "payment instrument" does not include any credit card voucher, any  
23 letter of credit or any instrument which is redeemable by the issuer  
24 in goods or services.
- 25 "Permissible investments" means:
- 26 (1) cash;
- 27 (2) certificates of deposit or other debt obligations of a bank,  
28 savings bank, savings and loan association, or credit union, either  
29 domestic or foreign;
- 30 (3) bills of exchange or time drafts drawn on and accepted by a  
31 commercial bank, otherwise known as bankers' acceptances, which  
32 are eligible for purchase by member banks of the Federal Reserve  
33 System;
- 34 (4) any investment which is rated in one of the three highest  
35 rating categories by a nationally recognized statistical rating  
36 organization;
- 37 (5) investment securities that are obligations of the United  
38 States, its agencies or instrumentalities, or obligations that are  
39 guaranteed fully as to principal and interest by the United States, or  
40 any obligations of any state, municipality or any political  
41 subdivision thereof which is rated in one of the three highest rating  
42 categories by a nationally recognized statistical rating organization;
- 43 (6) shares in a money market mutual fund, interest-bearing bills,  
44 notes or bonds, debentures or stock traded on any national securities  
45 exchange or on a national over-the-counter market, or mutual funds  
46 primarily composed of those securities or a fund composed of one  
47 or more permissible investments as set forth in this section;

1 (7) demand borrowing agreements made to a corporation or a  
2 subsidiary of a corporation whose capital stock is listed on a  
3 national exchange;

4 (8) receivables which are due to a licensee from its authorized  
5 delegates pursuant to a contract described in section 17 of **[this act]**  
6 P.L.1998, c.14 (C.17:15C-17), which are not past due or doubtful of  
7 collection; or

8 (9) any other investments or security device which the  
9 commissioner may authorize by rule.

10 “Virtual currency” means any type of digital representation that:

11 (1) is used as a medium of exchange, unit of account or store of  
12 value; and

13 (2) is not recognized as legal tender by the United States  
14 government.

15 (cf: P.L.1998, c.14, s.2)

16

17 8. Section 3 of P.L.1998, c.14 (C.17:15C-3) is amended to read  
18 as follows:

19 3. a. **[This act]** P.L.1998, c.14 (C.17:15C-1 et seq.) shall not  
20 apply to:

21 (1) The United States or any department, agency, or  
22 instrumentality thereof;

23 (2) The United States Postal Service;

24 (3) The State or any political subdivision thereof;

25 (4) Banks, bank holding companies, credit unions, building and  
26 loan associations, savings and loan associations, savings banks or  
27 mutual banks organized under the laws of any state or the United  
28 States, provided that they do not issue or sell payment instruments  
29 through authorized delegates who are not banks, bank holding  
30 companies, credit unions, building and loan associations, savings  
31 and loan associations, savings banks or mutual banks;

32 (5) The provision of electronic transfer of government benefits  
33 for any federal, state or county agency as defined in Regulation E,  
34 12 C.F.R. s.205.1 et seq., by a contractor for and on behalf of the  
35 United States or any department, agency or instrumentality thereof,  
36 or any state or political subdivision thereof; **[and]**

37 (6) A person licensed to conduct business as a debt adjuster  
38 pursuant to P.L.1979, c.16 (C.17:16G-1 et seq.), when acting within  
39 the scope of activities regulated by that license; and

40 (7) Buying, selling, issuing, or taking custody of payment  
41 instruments or stored value in the form of virtual currency or  
42 receiving virtual currency for transmission to a location within or  
43 outside the United States.

44 b. Authorized delegates of a licensee, acting within the scope  
45 of authority conferred by a written contract as described in section  
46 17 of **[this act]** P.L.1998, c.14 (C.17:15C-17) shall not be required

1 to obtain a license pursuant to **[this act]** P.L.1998, c.14 (C.17:15C-  
2 1 et seq.).

3 (cf: P.L.1998, c.14, s.3)

4

5 9. (New section) As used in sections 9 through 21 of P.L. , c.  
6 (C. )(pending before the Legislature as this bill):

7 "Blockchain" means a digital ledger or database which is  
8 chronological, consensus-based, decentralized and mathematically  
9 verified in nature.

10 "Decentralized autonomous organization" means a limited  
11 liability company organized under P.L. , c. (C. )(pending  
12 before the Legislature as this bill).

13 "Digital asset" means a representation of economic, proprietary  
14 or access rights that is stored in a computer readable format and is  
15 either a digital consumer asset, digital security or virtual currency

16 "Limited liability autonomous organization" or "LAO" means a  
17 decentralized autonomous organization.

18 "Majority of the members," means the approval of more than 50  
19 percent of participating membership interests in a vote for which a  
20 quorum of members is participating. A person dissociated as a  
21 member as set forth in section 46 of P.L.2012, c.50 (C.42:2C-46)  
22 shall not be included for the purposes of calculating the majority of  
23 the members;

24 "Membership interest" means a member's ownership share in a  
25 member managed decentralized autonomous organization, which  
26 may be defined in the entity's articles of organization, smart  
27 contract or operating agreement. A membership interest may also be  
28 characterized as either a digital security or a digital consumer asset,  
29 if designated as such in the organization's articles of organization or  
30 operating agreement.

31 "Open blockchain" means a blockchain that is publicly  
32 accessible and its ledger of transactions is transparent.

33 "Quorum" means a minimum requirement on the sum of  
34 membership interests participating in a vote for that vote to be  
35 valid.

36 "Smart Contract" means:

37 (1) an automated transaction conducted or performed, in whole  
38 or in part, by electronic means or electronic records, in which the  
39 acts or records of one or both parties are not reviewed by an  
40 individual in the ordinary course in forming a contract, performing  
41 under an existing contract or fulfilling an obligation required by the  
42 transaction; or

43 (2) any substantially similar analogue, which is comprised of  
44 code, script or programming language that executes the terms of an  
45 agreement, and which may include taking custody of and  
46 transferring an asset, or issuing executable instructions for these  
47 actions, based on the occurrence or nonoccurrence of specified  
48 conditions.

1       10. (New section) a. The "Revised Uniform Limited Liability  
2 Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.) shall apply to  
3 decentralized autonomous organizations to the extent not  
4 inconsistent with the provisions of P.L. , c. (C. )(pending  
5 before the Legislature as this bill).

6       b. P.L. , c. (C. )(pending before the Legislature as this  
7 bill) shall not repeal or modify any statute or rule of law that applies  
8 to a limited liability company that is organized under P.L.2012, c.50  
9 (C.42:2C-1 et seq.) that does not elect to become a decentralized  
10 autonomous organization.

11  
12       11. (New section) a. A decentralized autonomous organization  
13 is a limited liability company the articles of organization of which  
14 contain a statement that the company is a decentralized autonomous  
15 organization as described in subsection c. of this section.

16       b. A limited liability company formed under P.L.2012, c.50  
17 (C.42:2C-1 et seq.) may convert to a decentralized autonomous  
18 organization by amending its articles of organization to include the  
19 statement required by subsections a. and c. of this section and  
20 section 13 of P.L. , c. (C. )(pending before the Legislature as  
21 this bill).

22       c. A statement in substantially the following form shall appear  
23 conspicuously in the articles of organization or operating  
24 agreement, if applicable, in a decentralized autonomous  
25 organization:

26  
27 **NOTICE OF RESTRICTIONS ON DUTIES AND TRANSFERS**

28  
29 The rights of members in a decentralized autonomous organization  
30 may differ materially from the rights of members in other limited  
31 liability companies. New Jersey's decentralized autonomous  
32 organization law, underlying smart contracts, articles of  
33 organization and operating agreement, if applicable, of a  
34 decentralized autonomous organization may define, reduce or  
35 eliminate fiduciary duties and may restrict transfer of ownership  
36 interests, withdrawal or resignation from the decentralized  
37 autonomous organization, return of capital contributions and  
38 dissolution of the decentralized autonomous organization.

39       d. The registered name for a decentralized autonomous  
40 organization shall include wording or abbreviation to denote its  
41 status as a decentralized autonomous organization, specifically  
42 "DAO", "LAO", or "DAO LLC."

43       e. A statement in the articles of organization may define the  
44 decentralized autonomous organization as either a member managed  
45 decentralized autonomous organization or an algorithmically  
46 managed decentralized autonomous organization. If the type of  
47 decentralized autonomous organization is not otherwise provided

1 for, the limited liability company will be presumed to be a member  
2 managed decentralized autonomous organization.

3

4 12. (New section) a. Any person may form a decentralized  
5 autonomous organization, which shall have one or more members  
6 by signing and delivering one original and one exact or conformed  
7 copy of the articles of organization to the filing office for filing.  
8 The person forming the decentralized autonomous organization  
9 need not be a member of the organization.

10 b. A decentralized autonomous organization shall have and  
11 continuously maintain in this State a registered agent as provided in  
12 section 14 of P.L.2012, c.50 (C.42:2C-14).

13 c. A decentralized autonomous organization may form and  
14 operate for any lawful purpose, regardless of whether for profit.

15 d. An algorithmically managed decentralized autonomous  
16 organization may only form under P.L. , c. (C. )(pending  
17 before the Legislature as this bill) if the underlying smart contracts  
18 are able to be updated, modified or otherwise upgraded.

19

20 13. (New section) a. The articles of organization of a  
21 decentralized autonomous organization shall include a statement  
22 that the organization is a decentralized autonomous organization,  
23 pursuant to section 11 of P.L. , c. (C. )(pending before the  
24 Legislature as this bill) and section 18 of P.L.2012, c.50 (C.42:2C-  
25 18).

26 b. In addition to the requirements of subsection a. of this  
27 section the articles of organization shall include a publicly available  
28 identifier of any smart contract directly used to manage, facilitate or  
29 operate the decentralized autonomous organization.

30 c. Except as otherwise provided in P.L. , c.  
31 (C. )(pending before the Legislature as this bill), the articles of  
32 organization and the smart contracts for a decentralized autonomous  
33 organization shall govern all of the following:

34 (1) relations among the members and between the members and  
35 the decentralized autonomous organization;

36 (2) rights and duties under P.L. , c. (C. )(pending before  
37 the Legislature as this bill) of a person in the person's capacity as a  
38 member;

39 (3) activities of the decentralized autonomous organization and  
40 the conduct of those activities;

41 (4) means and conditions for amending the operating agreement;

42 (5) rights and voting rights of members;

43 (6) transferability of membership interests;

44 (7) withdrawal of membership;

45 (8) distributions to members prior to dissolution;

46 (9) amendment of the articles of organization;

47 (10) procedures for amending, updating, editing or changing  
48 applicable smart contracts; and

1 (11) all other aspects of the decentralized autonomous  
2 organization.

3 d. Articles of organization shall be amended when:

4 (1) there is a change in the name of the decentralized  
5 autonomous organization;

6 (2) there is a false or erroneous statement in the articles of  
7 organization; or

8 (3) the decentralized autonomous organization's smart contracts  
9 have been updated or changed.

10

11 14. (New section) To the extent the articles of organization or  
12 smart contract do not otherwise provide for a matter described in  
13 section 13 of P.L. , c. (C. )(pending before the Legislature as  
14 this bill), the operation of a decentralized autonomous organization  
15 may be supplemented by an operating agreement.

16

17 15. (New section) Management of a decentralized autonomous  
18 organization shall be vested in its members, if member managed, or  
19 the smart contract, if algorithmically managed, unless otherwise  
20 provided in the articles of organization or operating agreement.

21

22 16. (New section) Unless otherwise provided for in the articles  
23 of organization or operating agreement, no member of a  
24 decentralized autonomous organization shall have any fiduciary  
25 duty to the organization or any member except that the members  
26 shall be subject to the implied contractual covenant of good faith  
27 and fair dealing.

28

29 17. (New section) a. For purposes of this section and section 18  
30 of P.L. , c. (C. )(pending before the Legislature as this bill)  
31 and unless otherwise provided for in the articles of organization,  
32 smart contract or operating agreement:

33 (1) membership interests in a member managed decentralized  
34 autonomous organization shall be calculated by dividing a member's  
35 contribution of digital assets to the organization divided by the total  
36 amount of digital assets contributed to the organization at the time  
37 of a vote;

38 (2) if members do not contribute digital assets to an organization  
39 as a prerequisite to becoming a member, each member shall possess  
40 one membership interest and be entitled to one vote;

41 (3) a quorum shall require not less than a majority of  
42 membership interests entitled to vote.

43 b. Members shall have no right to separately inspect or copy  
44 records of a decentralized autonomous organization and the  
45 organization shall have no obligation to furnish any information  
46 concerning the organization's activities, financial condition or other  
47 circumstances to the extent the information is available on an open  
48 blockchain.

1 18. (New section) a. A member may only withdraw from a  
2 decentralized autonomous organization in accordance with the  
3 terms set forth in the articles of organization, the smart contracts or,  
4 if applicable, the operating agreement.

5 b. A member of a decentralized autonomous organization shall  
6 not have the organization dissolved for a failure to return the  
7 members' contribution to capital.

8 c. Unless the organization's articles of organization, smart  
9 contracts or operating agreement provide otherwise, a withdrawn  
10 member forfeits all membership interests in the decentralized  
11 autonomous organization, including any governance or economic  
12 rights.

13

14 19. (New section) a. A decentralized autonomous organization  
15 organized under P.L. , c. (C. )(pending before the Legislature  
16 as this bill) shall be dissolved upon the occurrence of any of the  
17 following events:

18 (1) the period fixed for the duration of the organization expires;

19 (2) by vote of the majority of members of a member managed  
20 decentralized autonomous organization;

21 (3) at the time or upon the occurrence of events specified in the  
22 underlying smart contracts or as specified in the articles of  
23 organization or operating agreement;

24 (4) the decentralized autonomous organization has failed to  
25 approve any proposals or take any actions for a period of one year;

26 (5) by order of the Division of Revenue and Enterprise Services  
27 if the decentralized autonomous organization is deemed to no  
28 longer perform a lawful purpose.

29 b. As soon as possible following the occurrence of any of the  
30 events specified in subsection a. of this section causing the  
31 dissolution of a decentralized autonomous organization, the  
32 organization shall execute a statement of intent to dissolve in the  
33 form prescribed by the Division of Revenue and Enterprise  
34 Services.

35

36 20. (New section) The articles of organization and the operating  
37 agreement of a decentralized autonomous organization are effective  
38 as statements of authority. Where the underlying articles of  
39 organization and operating agreement are in conflict, the articles of  
40 organization shall preempt any conflicting provisions. Where the  
41 underlying articles of organization and smart contract are in  
42 conflict, the smart contract shall preempt any conflicting provisions  
43 of the articles of organization, except as it relates to section 11 of  
44 P.L. , c. (C. )(pending before the Legislature as this bill) and  
45 subsections a. and b. of section 13 of P.L. , c. (C. )(pending  
46 before the Legislature as this bill).



1       21. (New section) The Division of Revenue and Enterprise  
2 Services shall not issue a certificate of authority for a foreign  
3 decentralized autonomous organization.

4  
5       22. (New section) a. Not later than December 31, 2022, the  
6 Division of Revenue and Enterprise Services shall develop and  
7 implement a filing system through which all required filings may be  
8 submitted. The division shall endeavor to use blockchain  
9 technology and include an application programming interface as  
10 components of the filing system, as well as robust security measures  
11 and other components determined by the division to be best  
12 practices or which are likely to increase the effective and efficient  
13 administration of the laws of this State. The division may create a  
14 blockchain for the purposes of this section or contract for the use of  
15 a privately created blockchain.

16       b. The division may:

17       (1) consult with all interested parties before developing the  
18 filing system specified in this section, including businesses,  
19 registered agents, attorneys, law enforcement and other interested  
20 persons; and

21       (2) if possible, partner with technology innovators and private  
22 companies to develop necessary components of the system.

23       c. The division shall promulgate such rules and regulations as  
24 the division determines are necessary to effectuate the provisions of  
25 P.L. , c. (C. ) (pending before the Legislature as this bill).

26       d. As used in this section:

27       “Application programming interface” means a computer software  
28 intermediary which allows two distinct software applications to  
29 interact.

30       “Blockchain” means a digital ledger or database which is  
31 chronological, consensus-based, decentralized and mathematically  
32 verified in nature.

33       “Division” means the Division of Revenue and Enterprise  
34 Services in the New Jersey Department of the Treasury.

35       “Required filings” means all documents, reports, data and other  
36 information required by law to be filed with the division.

37

38       23. (New section) a. The articles of incorporation or bylaws of  
39 a corporation may specify that all or a portion of the shares of the  
40 corporation may be represented by share certificates in the form of  
41 certificate tokens. The electronic message, command or transaction  
42 that transmits the certificate tokens to the data address to which a  
43 certificate token was issued shall be authorized at the time of  
44 issuance by one or more messages, commands or transactions  
45 signed with the network signatures of two officers designated in the  
46 bylaws or by the board of directors of the corporation.

47       b. Notwithstanding any law, rule, or regulation to the contrary,  
48 as used in chapter 7 of Title 14A of the New Jersey Statutes, any

1 reference to share certificate, share, stock, or words of similar  
2 import shall be construed to include a certificate token.

3 c. Notwithstanding any law, rule, or regulation to the contrary,  
4 the information required by subsection a. of this section shall satisfy  
5 any other requirement of chapter 7 of Title 14A of the New Jersey  
6 Statutes to include information on a share certificate.

7 d. Notwithstanding any law, rule, or regulation to the contrary,  
8 as used in chapter 7 of Title 14A of the New Jersey Statutes, any  
9 reference to certificated shares or words of similar import shall be  
10 construed to include shares represented by certificate tokens, and  
11 any reference to the delivery or deposit of these shares to the  
12 corporation shall be construed to refer to any method of granting  
13 control of the tokens to the corporation.

14 e. Notwithstanding any law, rule, or regulation to the contrary,  
15 as used in chapter 7 of Title 14A of the New Jersey Statutes, any  
16 reference to a certificate being duly endorsed or words of similar  
17 import shall be construed to mean that the transaction authorizing  
18 transfer of control of the certificate token was signed by the lawful  
19 holder of the token with the network signature corresponding to the  
20 lawful holder's data address to which the certificate token was  
21 issued or last lawfully transferred.

22 f. As used in this section:

23 "Blockchain" means a digital ledger or database which is  
24 chronological, consensus based, decentralized and mathematically  
25 verified in nature;

26 "Certificate token" means a representation of shares that is stored  
27 in an electronic format which contains information pursuant to  
28 N.J.S.14A:7-11, and this information is:

- 29 (1) entered into a blockchain or other secure, auditable database;  
30 (2) linked to or associated with the certificate token; and  
31 (3) able to be transmitted electronically to the issuing  
32 corporation, the person to whom the certificate token was issued  
33 and any transferee.

34 "Network signature" means a string of alphanumeric characters  
35 that, when broadcast by a person to the data address's corresponding  
36 distributed or other electronic network or database, provides  
37 reasonable assurances to a recipient that the broadcasting person  
38 has knowledge or possession of the private key uniquely associated  
39 with the data address.

40

41 24. N.J.S.14A:7-11 is amended to read as follows:

42 14A:7-11. (1) The shares of a corporation shall be represented by  
43 certificates or, in accordance with subsection 14A:7-11(6), shall be  
44 uncertificated shares. Certificates shall be signed by, or in the name  
45 of the corporation by, the chairman or vice-chairman of the board,  
46 or the president or a vice-president, and may be countersigned by  
47 the treasurer or an assistant treasurer, or the secretary or an assistant  
48 secretary of the corporation and may be sealed with the seal of the

1 corporation or a facsimile thereof. Any or all signatures upon a  
2 certificate may be a facsimile. In case any officer, transfer agent or  
3 registrar who has signed or whose facsimile signature has been  
4 placed upon such certificate, shall have ceased to be such officer,  
5 transfer agent, or registrar before such certificate is issued, it may  
6 be issued by the corporation with the same effect as if he were such  
7 officer, transfer agent or registrar at the date of its issue.

8 (2) Every share certificate delivered after the effective date of  
9 this act by a corporation which is authorized to issue shares of more  
10 than one class shall set forth upon the face or back of the certificate,  
11 a full statement

12 (a) Of the designations, relative rights, preferences and  
13 limitations of the shares of each class and series authorized to be  
14 issued, so far as the same have been determined, and

15 (b) Of the authority of the board to divide the shares into classes  
16 or series and to determine and change the relative rights,  
17 preferences and limitations of any class or series, or shall set forth  
18 that the corporation will furnish to any shareholder, upon request  
19 and without charge, such a full statement.

20 (3) Each certificate representing shares shall state upon the face  
21 thereof

22 (a) That the corporation is organized under the laws of this  
23 State;

24 (b) The name of the person to whom issued; **[and]**

25 (c) The number and class of shares, and the designation of the  
26 series, if any, which such certificate represents, and

27 (d) In the case of a certificate token pursuant to section 23 of  
28 P.L. , c. (C. ) (pending before the Legislature as this bill),  
29 the data address to whom which the token was issued; .

30 (4) No certificate shall be issued for any share until such share is  
31 fully paid.

32 (5) A card which is punched, magnetically coded or otherwise  
33 treated so as to facilitate machine or automatic processing, may be  
34 used as a share certificate if it otherwise complies with the  
35 provisions of this section.

36 (6) The board may provide that some or all of the shares of any  
37 class or series shall be represented by uncertificated shares. Within  
38 a reasonable time after the issuance or transfer of uncertificated  
39 shares, the corporation shall send to the registered owner thereof a  
40 written notice containing the information required to be set forth or  
41 stated on certificates by subsections 14A:7-11(2) and 14A:7-11(3),  
42 and if required, 14A:7-12(2). Except as otherwise expressly  
43 provided by law, the rights and obligations of the holders of  
44 uncertificated shares and the rights and obligations of the holders of  
45 certificates representing shares of the same class and series shall be  
46 identical.

47 (cf: P.L.1988, c.94, s.42)

1       25. (New section) a. Receipts from retail sales of energy and  
2 utility service to a virtual currency servicer for use or consumption  
3 directly and primarily in the creation of virtual currency, including  
4 mining, shall be exempt from the tax imposed under the "Sales and  
5 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

6       b. A virtual currency servicer may file an application for a  
7 sales and use tax exemption with the Director of the Division of  
8 Taxation in the Department of the Treasury. The director shall  
9 process the application within 20 business days of receipt thereof.  
10 An exemption for a virtual currency servicer shall commence upon  
11 notice of approval of its application. Upon approval of its  
12 application, the director shall provide prompt notice to a business.

13       c. For the purposes of this section:

14       "Virtual currency" means a digital asset that is:

15       (1) Used as a medium of exchange, unit of account or store of  
16 value; and

17       (2) Not recognized as legal tender by the United States  
18 government.

19       "Virtual currency servicer" means

20       (1) any person who, as its primary business, engages in virtual  
21 currency creation, including mining;

22       (2) any person who, as its primary business, engages in the  
23 provision of a distributed digital verification system; or

24       (3) any person licensed pursuant to P.L. , c. (C. )  
25 (pending before the Legislature as Assembly Bill No.2891).

26

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

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

30       "Affiliate" means an entity that directly or indirectly controls, is  
31 under common control with, or is controlled by the business.  
32 Control exists in all cases in which the entity is a member of a  
33 controlled group of corporations as defined pursuant to section 1563  
34 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the  
35 entity is an organization in a group of organizations under common  
36 control as defined pursuant to subsection (b) or (c) of section 414 of  
37 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer  
38 may establish by clear and convincing evidence, as determined by  
39 the Director of the Division of Taxation in the Department of the  
40 Treasury, that control exists in situations involving lesser  
41 percentages of ownership than required by those statutes. An  
42 affiliate of a business may contribute to meeting either the qualified  
43 investment or full-time employee requirements of a business that  
44 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-  
45 209).

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

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

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

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

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

15 a partnership;

16 an S corporation;

17 a limited liability company; or

18 a non-profit corporation.

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

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

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

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

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

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

44 d. any of the foregoing.

45 In addition to the foregoing, in a Garden State Growth Zone, the  
46 following qualify as a capital investment: any development,  
47 redevelopment, and relocation costs, including, but not limited to,  
48 site acquisition if made within 24 months of application to the

1 authority, engineering, legal, accounting, and other professional  
2 services required; and relocation, environmental remediation, and  
3 infrastructure improvements for the project area, including, but not  
4 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or  
5 sidewalk construction or repair.

6 In addition to the foregoing, if a business acquires or leases a  
7 qualified business facility, the capital investment made or acquired  
8 by the seller or owner, as the case may be, if pertaining primarily to  
9 the premises of the qualified business facility, shall be considered a  
10 capital investment by the business and, if pertaining generally to the  
11 qualified business facility being acquired or leased, shall be  
12 allocated to the premises of the qualified business facility on the  
13 basis of the gross leasable area of the premises in relation to the  
14 total gross leasable area in the qualified business facility. The  
15 capital investment described herein may include any capital  
16 investment made or acquired within 24 months prior to the date of  
17 application so long as the amount of capital investment made or  
18 acquired by the business, any affiliate of the business, or any owner  
19 after the date of application equals at least 50 percent of the amount  
20 of capital investment, allocated to the premises of the qualified  
21 business facility being acquired or leased on the basis of the gross  
22 leasable area of the premises in relation to the total gross leasable  
23 area in the qualified business facility made or acquired prior to the  
24 date of application.

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

28 "Commitment period" means the period of time that is 1.5 times  
29 the eligibility period.

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

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

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

1 for development and in need of economic development incentive  
2 assistance.

3 “Virtual currency servicer” means the same as defined in section  
4 25 of P.L. , c. (C. )(pending before the Legislature as this  
5 bill).

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

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

19 "Eligibility period" means the period in which a business may  
20 claim a tax credit under the Grow New Jersey Assistance Program,  
21 beginning with the tax period in which the authority accepts  
22 certification of the business that it has met the capital investment  
23 and employment requirements of the Grow New Jersey Assistance  
24 Program and extending thereafter for a term of not more than 10  
25 years, with the term to be determined solely at the discretion of the  
26 applicant.

27 "Eligible position" or "full-time job" means a full-time position  
28 in a business in this State, which position the business has filled  
29 with a full-time employee, who shall have their primary office at  
30 the qualified business facility and spend at least 60 percent of their  
31 time at the qualified business facility. This requirement shall  
32 supersede any law, regulation, or incentive agreement that imposes  
33 a requirement that the employee be present at the qualified business  
34 facility for a specified percentage of time greater than 60 percent.  
35 This amendment shall not alter or terminate any waiver of the  
36 requirement that an employee spend time at the qualified business  
37 facility implemented by the authority due to COVID-19 public  
38 health emergency and state of emergency.

39 "Full-time employee" means a person:

40 a. who is employed by a business for consideration for at least  
41 35 hours a week, or who renders any other standard of service  
42 generally accepted by custom or practice as full-time employment;  
43 or

44 b. who is employed by a professional employer organization  
45 pursuant to an employee leasing agreement between the business  
46 and the professional employer organization, in accordance with  
47 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or  
48 who renders any other standard of service generally accepted by

1 custom or practice as full-time employment, and whose wages are  
2 subject to withholding as provided in the "New Jersey Gross  
3 Income Tax Act," N.J.S.54A:1-1 et seq.; or

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

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

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

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

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

28 35 hours of employment per week at a qualified business facility  
29 shall constitute one "full-time employee," regardless of whether or  
30 not the hours of work were performed by one or more persons.

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

45 "Full-time employee" shall not include any person who works as  
46 an independent contractor or on a consulting basis for the business.

47 Full-time employee shall also not include any person who at the  
48 time of project application works in New Jersey for consideration



1 for at least 35 hours per week, or who renders any other standard of  
2 service generally accepted by custom or practice as full-time  
3 employment but who prior to project application was not provided,  
4 by the business, with employee health benefits under a health  
5 benefits plan authorized pursuant to State or federal law.

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

11 "Garden State Growth Zone" or "growth zone" means the four  
12 New Jersey cities with the lowest median family income based on  
13 the 2009 American Community Survey from the US Census, (Table  
14 708. Household, Family, and Per Capita Income and Individuals,  
15 and Families Below Poverty Level by City: 2009); a municipality  
16 which contains a Tourism District as established pursuant to section  
17 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino  
18 Reinvestment Development Authority; or an aviation district.

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

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

29 "Incentive effective date" means the date a business submits the  
30 documentation required pursuant to paragraph (1) of subsection b.  
31 of section 6 of P.L.2011, c.149 (C.34:1B-247) in a form satisfactory  
32 to the authority.

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

46 "Major rail station" means a railroad station located within a  
47 qualified incentive area which provides access to the public to a

1 minimum of six rail passenger service lines operated by the New  
2 Jersey Transit Corporation.

3 "Mega project" means:

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

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

10 (2) at which more than 1,000 full-time employees of the  
11 business are created or retained;

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

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

20 (2) at which more than 1,000 full-time employees of the  
21 business are created or retained;

22 c. a qualified business facility located in an urban transit hub  
23 housing a business of any kind, having a capital investment in  
24 excess of \$50,000,000, and at which more than 250 full-time  
25 employees of the business are created or retained;

26 d. a project located in an area designated in need of  
27 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)  
28 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within  
29 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,  
30 Ocean, or Salem counties having a capital investment in excess of  
31 \$20,000,000, and at which more than 150 full-time employees of  
32 the business are created or retained; or

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

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

42 (2) at which more than 1,000 full-time employees of the  
43 business are created or retained.

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

1 and non-renewable resources in order to reduce environmental  
2 degradation and encourage long-term cost reduction.

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

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

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

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

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

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

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

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

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

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

44 b. intersect with portions of: a deep poverty pocket, a port  
45 district, or federally-owned land approved for closure under a  
46 federal Commission on Base Realignment and Closure action;

47 c. are the proposed site of a disaster recovery project, a  
48 qualified incubator facility, a highlands development credit

1 receiving area or redevelopment area, a tourism destination project,  
2 or transit oriented development; or

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

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

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

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

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

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

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

31 "Qualified incentive area" means:

32 a. an aviation district;

33 b. a port district;

34 c. a distressed municipality or urban transit hub municipality;

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

37 (a) Planning Area 1 (Metropolitan);

38 (b) Planning Area 2 (Suburban); or

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

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

46 (3) located within any land owned by the New Jersey Sports and  
47 Exposition Authority, established pursuant to P.L.1971, c.137  
48 (C.5:10-1 et seq.), within the boundaries of the Hackensack

1 Meadowlands District as delineated in section 4 of P.L.1968, c.404  
2 (C.13:17-4);

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

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

12 (6) located within a Garden State Growth Zone;

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

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

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

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

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

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

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

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

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

46 "Qualified incubator facility" means a commercial building  
47 located within a qualified incentive area: which contains 50,000 or  
48 more square feet of office, laboratory, or industrial space; which is

1 located near, and presents opportunities for collaboration with, a  
2 research institution, teaching hospital, college, or university; and  
3 within which, at least 50 percent of the gross leasable area is  
4 restricted for use by one or more technology startup companies  
5 during the commitment period.

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

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

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

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

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

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

1 startup company” shall include a company that is a virtual currency  
2 servicer, regardless of the number of years the business has been in  
3 operatio.

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

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

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

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

33 (cf: P.L2021, c.160, s.61)

34

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

37 5. a. The total amount of the tax credit for an eligible business  
38 for each new or retained full-time job shall be as set forth in  
39 subsections b. through f. of this section. The total tax credit amount  
40 shall be calculated and credited to the business annually for each  
41 year of the eligibility period. Notwithstanding any other provisions  
42 of P.L.2013, c.161 (C.52:27D-489p et al.), a business may assign its  
43 ability to apply for the tax credit under this subsection to a non-  
44 profit organization with a mission dedicated to attracting investment  
45 and completing development and redevelopment projects in a  
46 Garden State Growth Zone. The non-profit organization or  
47 organization operating a qualified incubator facility may make an  
48 application on behalf of a business which meets the requirements

1 for the tax credit, or a group of non-qualifying businesses or  
2 positions, located at a qualified business facility, that shall be  
3 considered a unified project for the purposes of the incentives  
4 provided under this section. For any project located in a Garden  
5 State Growth Zone that qualifies under the "Municipal  
6 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
7 (C.52:27BBB-1 et al.), or any project located in a Garden State  
8 Growth Zone which contains a Tourism District as established  
9 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated  
10 by the Casino Reinvestment Development Authority, and which  
11 will include a retail facility of at least 150,000 square feet, of which  
12 at least 50 percent will be occupied by either a full-service  
13 supermarket or grocery store, a business may assign its ability to  
14 apply for the tax credit under this subsection to the developer of the  
15 facility. The developer may make an application on behalf of the  
16 business which meets the requirements for the tax credit, or a group  
17 of non-qualifying businesses located at the business facility, that  
18 shall be considered a unified project for the purposes of the  
19 incentives provided under this section, and the developer may apply  
20 for tax credits available based on the number of jobs provided by  
21 the business or businesses and the total capital investment of the  
22 business or businesses and the developer.

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

25 (1) (a) for a qualified business facility located within an urban  
26 transit hub municipality, located within a Garden State Growth  
27 Zone, or which is a mega project, \$5,000 per year;

28 (b) for a qualified business facility located within a Garden State  
29 Create Zone and used by an eligible business in a targeted industry  
30 to conduct a collaborative research relationship with a doctoral  
31 university within the zone, \$5,000 per year;

32 (2) for a qualified business facility located within a distressed  
33 municipality but not qualifying under paragraph (1) of this  
34 subsection, \$4,000 per year;

35 (3) for a project in a priority area, \$3,000 per year; and

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

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

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

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



- 1 (3) for a qualified business facility located in a mixed-use  
2 development that incorporates sufficient moderate income housing  
3 on site to accommodate a minimum of 20 percent of the full-time  
4 employees of the business, an increase of \$500 per year;
- 5 (4) for a qualified business facility located within a transit  
6 oriented development, an increase of \$2,000 per year;
- 7 (5) for a qualified business facility, other than a mega project, at  
8 which the capital investment in industrial premises for industrial  
9 use by the business is in excess of the minimum capital investment  
10 required for eligibility pursuant to subsection b. of section 3 of  
11 P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for  
12 each additional amount of investment that exceeds the minimum  
13 amount required for eligibility by 20 percent, with a maximum  
14 increase of \$3,000 per year;
- 15 (6) for a business with new full-time jobs and retained full-time  
16 jobs at the project with an average salary in excess of the existing  
17 average salary for the county in which the project is located, or, in  
18 the case of a project in a Garden State Growth Zone, a business that  
19 employs full-time positions at the project with an average salary in  
20 excess of the average salary for the Garden State Growth Zone, an  
21 increase of \$250 per year during the commitment period for each 35  
22 percent by which the project's average salary levels exceeds the  
23 county or Garden State Growth Zone average salary, with a  
24 maximum increase of \$1,500 per year;
- 25 (7) for a business with large numbers of new full-time jobs and  
26 retained full-time jobs during the commitment period, the increases  
27 shall be in accordance with the following schedule:
  - 28 (a) if the number of new full-time jobs and retained full-time  
29 jobs is between 251 and 400, \$500 per year;
  - 30 (b) if the number of new full-time jobs and retained full-time  
31 jobs is between 401 and 600, \$750 per year;
  - 32 (c) if the number of new full-time jobs and retained full-time  
33 jobs is between 601 and 800, \$1000 per year;
  - 34 (d) if the number of new full-time jobs and retained full-time  
35 jobs is between 801 and 1,000, \$1,250 per year;
  - 36 (e) if the number of new full-time jobs and retained full-time  
37 jobs is in excess of 1,000, \$1,500 per year;
- 38 (8) for a business in a targeted industry, an increase of \$500 per  
39 year, except in the case of a business in a targeted industry that is a  
40 virtual currency servicer, an increase of \$5,000 per year;
- 41 (9) for a qualified business facility exceeding the Leadership in  
42 Energy and Environmental Design's "Silver" rating standards or  
43 completes substantial environmental remediation, an additional  
44 increase of \$250 per year;
- 45 (10) for a mega project or a project located within a Garden  
46 State Growth Zone at which the capital investment in industrial  
47 premises for industrial use by the business exceeds the minimum  
48 capital investment required for eligibility pursuant to subsection b.

- 1 of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of  
2 \$1,000 per year for each additional amount of investment that  
3 exceeds the minimum amount by 20 percent, with a maximum  
4 increase of \$5,000 per year;
- 5 (11) for a project in which a business retains at least 400 jobs  
6 and is located within the municipality in which it was located  
7 immediately prior to the filing of the application hereunder and is  
8 the United States headquarters of an automobile manufacturer, an  
9 increase of \$1,500 per year;
- 10 (12) for a project located in a municipality in Atlantic,  
11 Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean,  
12 and Salem counties with a 2007 Municipality Revitalization Index  
13 greater than 465, an increase of \$1,000 per year;
- 14 (13) for a project located within a half-mile of any light rail  
15 station constructed after the effective date of P.L.2013, c.161  
16 (C.52:27D-489p et al.), an increase of \$1,000 per year;
- 17 (14) for a marine terminal project in a municipality located  
18 outside the Garden State Growth Zone, but within the geographical  
19 boundaries of the South Jersey Port District, an increase of \$1,500  
20 per year;
- 21 (15) for a project located within an area determined to be in  
22 need of redevelopment pursuant to sections 5 and 6 of P.L.1992,  
23 c.79 (C.40A:12A-5 and C.40A:12A-6), and which is located within  
24 a quarter mile of at least one United States Highway and at least  
25 two New Jersey State Highways, an increase of \$1,500 per year;
- 26 (16) for a project that generates solar energy on site for use  
27 within the project of an amount that equals at least 50 percent of the  
28 project's electric supply service needs, an increase of \$250 per year;
- 29 (17) for a qualified business facility that includes a vacant  
30 commercial building having over 1,000,000 square feet of office or  
31 laboratory space available for occupancy for a period of over one  
32 year, an increase of \$1,000 per year; and
- 33 (18) for an eligible business in a targeted industry at a qualified  
34 business facility on the campus of a college or university other than  
35 a doctoral university, or at a qualified business facility within a  
36 three-mile radius of the outermost boundary of the campus of a  
37 college or university other than a doctoral university, which facility  
38 is used by the business to conduct a collaborative research  
39 relationship with the college or university, an increase of \$1,000 per  
40 year. The boundary of the campus of a college or university shall  
41 be based upon a map appearing in the college's or university's  
42 official catalog or other official publication on the effective date of  
43 P.L.2017, c.221.
- 44 d. The gross amount of the tax credit for an eligible business  
45 for each new or retained full-time job shall be the sum of the base  
46 amount as set forth pursuant to subsection b. of this section and the  
47 various additional bonus amounts for which the business is eligible

1 pursuant to subsection c. of this section, subject to the following  
2 limitations:

3 (1) for a mega project or a project in a Garden State Growth  
4 Zone, the gross amount for each new or retained full-time job shall  
5 not exceed \$15,000 per year;

6 (2) for a qualified business facility located within an urban  
7 transit hub municipality or a Garden State Create Zone, the gross  
8 amount for each new or retained full-time job shall not exceed  
9 \$12,000 per year;

10 (3) for a qualified business facility in a distressed municipality  
11 the gross amount for each new or retained full-time job shall not  
12 exceed \$11,000 per year;

13 (4) for a qualified business facility in other priority areas, the  
14 gross amount for each new or retained full-time job shall not exceed  
15 \$10,500 per year;

16 (5) for a qualified business facility in other eligible areas, the  
17 gross amount for each new or retained full-time job shall not exceed  
18 \$6,000 per year; and

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

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

29 (a) for a project which creates 35 or more full-time jobs new to  
30 the municipality and makes a capital investment of at least  
31 \$5,000,000, the total tax credit amount per full-time job shall be the  
32 greater of: (i) the total tax credit amount for a qualifying project in  
33 a Garden State Growth Zone as calculated pursuant to subsections  
34 a. through f. of this section; or (ii) the total capital investment of the  
35 project divided by the total number of full-time jobs at that project  
36 but not greater than \$2,000,000 per year over the grant term of ten  
37 years;

38 (b) for a project which creates 70 or more full-time jobs new to  
39 the municipality and makes a capital investment of at least  
40 \$10,000,000, the total tax credit amount per full-time job shall be  
41 the greater of: (i) the total tax credit amount for a qualifying project  
42 in a Garden State Growth Zone as calculated pursuant to  
43 subsections a. through f. of this section; or (ii) the total capital  
44 investment of the project divided by the total number of full-time  
45 jobs at that project but not greater than \$3,000,000 per year over the  
46 grant term of ten years;

47 (c) for a project which creates 100 or more full-time jobs new to  
48 the municipality and makes a capital investment of at least

1 \$15,000,000, the total tax credit amount per full-time job shall be  
2 the greater of: (i) the total tax credit amount for a qualifying project  
3 in a Garden State Growth Zone as calculated pursuant to  
4 subsections a. through f. of this section; or (ii) the total capital  
5 investment of the project divided by the total number of full-time  
6 jobs at that project but not greater than \$4,000,000 per year over the  
7 grant term of ten years;

8 (d) for a project which creates 150 or more full-time jobs new to  
9 the municipality and makes a capital investment of at least  
10 \$20,000,000, the total tax credit amount per full-time job shall be  
11 the greater of: (i) the total tax credit amount for a qualifying project  
12 in a Garden State Growth Zone as calculated pursuant to  
13 subsections a. through f. of this section; or (ii) the total capital  
14 investment of the project divided by the total number of full-time  
15 jobs at that project but not greater than \$5,000,000 per year over the  
16 grant term of ten years; or

17 (e) for a project which creates 250 or more full-time jobs new to  
18 the municipality and makes a capital investment of at least  
19 \$30,000,000, the total tax credit amount per full-time job shall be  
20 the greater of: (i) the total tax credit amount for a qualifying project  
21 in a Garden State Growth Zone as calculated pursuant to  
22 subsections a. through f. of this section; or (ii) the total capital  
23 investment of the project divided by the total number of full-time  
24 jobs as defined herein at that project divided by the ten-year grant  
25 term.

26 e. After the determination by the authority of the gross amount  
27 of tax credits for which a business is eligible pursuant to subsection  
28 d. of this section, the final total tax credit amount shall be  
29 calculated as follows: (1) for each new full-time job, the business  
30 shall be allowed tax credits equaling 100 percent of the gross  
31 amount of tax credits for each new full-time job; and (2) for each  
32 retained full-time job, the business shall be allowed tax credits  
33 equaling the lesser of 50 percent of the gross amount of tax credits  
34 for each retained full-time job, or one-tenth of the capital  
35 investment divided by the number of retained and new full-time  
36 jobs per year over the grant term of ten years, unless the jobs are  
37 part of a mega project which is the United States headquarters of an  
38 automobile manufacturer located within a priority area or in a  
39 Garden State Growth Zone, in which case the business shall be  
40 entitled to tax credits equaling 100 percent of the gross amount of  
41 tax credits for each retained full-time job, or unless the new  
42 qualified business facility would replace a facility that has been  
43 wholly or substantially damaged as a result of a federally-declared  
44 disaster, in which case the business shall be entitled to tax credits  
45 equaling 100 percent of the gross amount of tax credits for each  
46 retained full-time job.

47 f. Notwithstanding the provisions of subsections a. through e.  
48 of this section, for each application approved by the authority's

1 board, the amount of tax credits available to be applied by the  
2 business annually shall not exceed:

3 (1) \$35,000,000 and provides a net benefit to the State as  
4 provided herein with respect to a qualified business facility in a  
5 Garden State Growth Zone which qualifies under the "Municipal  
6 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
7 (C.52:27BBB-1 et al.), or which contains a Tourism District as  
8 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and  
9 regulated by the Casino Reinvestment Development Authority;

10 (2) \$30,000,000 and provides a net benefit to the State as  
11 provided herein with respect to a mega project or a qualified  
12 business facility in a Garden State Growth Zone;

13 (3) \$10,000,000 and provides a net benefit to the State as  
14 provided herein with respect to a qualified business facility in an  
15 urban transit hub municipality or a Garden State Create Zone;

16 (4) \$8,000,000 and provides a net benefit to the State as  
17 provided herein with respect to a qualified business facility in a  
18 distressed municipality;

19 (5) \$4,000,000 and provides a net benefit to the State as  
20 provided herein with respect to a qualified business facility in other  
21 priority areas, but not more than 90 percent of the withholdings of  
22 the business from the qualified business facility; and

23 (6) \$2,500,000 and provides a net benefit to the State as  
24 provided herein with respect to a qualified business facility in other  
25 eligible areas, but not more than 90 percent of the withholdings of  
26 the business from the qualified business facility.

27 Under paragraphs (1) through (6) of this subsection, with the  
28 exception of a project located within a Garden State Growth Zone  
29 which qualifies for the "Municipal Rehabilitation and Economic  
30 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which  
31 contains a Tourism District as established pursuant to section 5 of  
32 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino  
33 Reinvestment Development Authority, that divides the total capital  
34 investment of the project by the total number of full-time jobs at  
35 that project, for each application for tax credits in excess of  
36 \$4,000,000 annually, the amount of tax credits available to be  
37 applied by the business annually shall be the lesser of the maximum  
38 amount under the applicable subsection or an amount determined by  
39 the authority necessary to complete the project, with such  
40 determination made by the authority's utilization of a full economic  
41 analysis of all locations under consideration by the business; all  
42 lease agreements, ownership documents, or substantially similar  
43 documentation for the business's current in-State locations, as  
44 applicable; and all lease agreements, ownership documents, or  
45 substantially similar documentation for the potential out-of-State  
46 location alternatives, to the extent they exist. Based on this  
47 information, and any other information deemed relevant by the

1 authority, the authority shall independently verify and confirm the  
2 amount necessary to complete the project.

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

4

5 28. Section 1 of P.L.1996, c.2 (C.54:48-4.2) is amended to read  
6 as follows:

7 1. As used in **[this act]** P.L.1996, c.2 (C.54:48-4.2 et al.):

8 "Cardholder" means the person or organization named on the  
9 face of a credit card or debit card to whom or for whose benefit the  
10 credit card or debit card is issued by an issuer.

11 "Card payment system" means a technical procedure by which  
12 tax obligations owed the State may be paid by credit card or debit  
13 card.

14 "Credit card" means any instrument or device linked to an  
15 established line of credit, whether known as a credit card, charge  
16 card, credit plate, or by any other name, issued with or without fee  
17 by an issuer for the use of the cardholder in satisfying outstanding  
18 financial obligations, obtaining money, goods, services or anything  
19 else of value on credit.

20 "Debit card" means any instrument or device, whether known as  
21 a debit card, automated teller machine card, or by any other name,  
22 issued with or without fee by an issuer for the use of the cardholder  
23 in obtaining money, goods, services or anything else of value  
24 through the electronic authorization of a financial institution to  
25 debit the cardholder's account.

26 "Electronic funds transfer" means any transfer of funds or virtual  
27 currency, other than a transaction originated by check, draft, or  
28 similar paper instrument, that is initiated through an electronic  
29 terminal, telephone, or computer or magnetic tape for the purpose  
30 of ordering, instructing or authorizing a financial institution to debit  
31 or credit an account.

32 "Electronic funds transfer system" means a technical procedure  
33 by which tax obligations owed the State may be paid by an  
34 electronic transaction between the financial institution of the person  
35 or organization owing the obligation and the financial institution of  
36 the State.

37 "Issuer" means the business organization or financial institution  
38 that issues a credit card or debit card, or its duly authorized agent.

39 "Service charge" means a mandatory fee to be charged by the  
40 Division of Taxation in excess of the total obligation under **[this**  
41 **act]** P.L.1996, c.2 (C.54:48-4.2 et al.) owed by a person or  
42 organization to offset processing charges or discount fees for the  
43 use of a card payment system or an electronic funds transfer system.

44 "Virtual currency" means a digital asset that is:

45 (1) used as a medium of exchange, unit of account or store of  
46 value; and

1     (2) not recognized as legal tender by the United States  
2     government.

3     (cf: P.L.1996, c.2, s.1)

4

5     29. The Commissioner of Banking and Insurance shall adopt,  
6     pursuant to the “Administrative Procedure Act,” P.L.1968,  
7     c.410 (C.52:14B-1 et seq.), rules and regulations the commissioner  
8     deems to be necessary, to effectuate the purposes of this act.

9

10     30. This act shall take effect on the first day of the fourth month  
11     after enactment, except the Commissioner of Banking and Insurance  
12     may take such anticipatory action as may be necessary for the  
13     implementation of this act.

14

15

16

#### STATEMENT

17

18     This bill, the “Virtual Currency and Blockchain Regulation Act,”  
19     establishes a regulatory framework for virtual currency businesses  
20     to operate in New Jersey, creates provisions governing the use of  
21     blockchain with certain business entities, and creates certain  
22     incentives for virtual currency businesses to locate in the State.

23

#### **Provisions on open blockchain tokens**

25     This bill provides that certain open blockchain tokens are  
26     intangible personal property rather than securities. An open  
27     blockchain token is to be considered intangible personal property  
28     under the bill if it meets the following characteristics:

29     (1) the predominant purpose of the token is consumptive;

30     (2) the developer or seller did not market the token to the initial  
31     buyer as a financial investment; and

32     (3) at least one of the following subparagraphs is satisfied:

33     (a) the developer or seller reasonably believed that it sold the  
34     token to the initial buyer for a consumptive purpose;

35     (b) the token has a consumptive purpose that is available at or  
36     near the time of sale and can be used at or near the time of sale for a  
37     consumptive purpose;

38     (c) the initial buyer of the token is prohibited by the developer  
39     or seller of the token from reselling the token until the token is  
40     available to be used for a consumptive purpose; or

41     (d) the developer or seller takes other reasonable precautions to  
42     prevent an initial buyer from purchasing the token as a financial  
43     investment.

44     The bill requires that, before making an open blockchain token  
45     available for sale, the developer or seller of a token, or the  
46     registered agent of the developer or seller, is to electronically file a  
47     notice of intent with the Department of Banking and Insurance and  
48     pay a filing fee of \$1,000. The notice of intent is to contain the

1 name of the person acting as a developer or seller, the contact  
2 information of the person, or the registered agent of the person and  
3 comprehensive details, to be determined by the Commissioner of  
4 Banking and Insurance, on the open blockchain token made  
5 available for sale. A form is to be made available by the  
6 department for this purpose, and is to include a secure electronic  
7 form conspicuously posted on the department's Internet website. A  
8 developer, seller and the registered agent of these persons, if  
9 applicable, is to have a continuing duty to update the contact  
10 information provided on a notice of intent as long as the open  
11 blockchain token associated with the notice is actively being sold.

12 The bill makes a willful failure by a developer, seller or  
13 facilitator to comply with the duties imposed by the bill an unlawful  
14 practice under the Consumer Fraud Act. An unlawful practice  
15 under the Consumer Fraud Act is punishable by a monetary penalty  
16 of not more than \$10,000 for a first offense and not more than  
17 \$20,000 for any subsequent offense. In addition, violations can  
18 result in cease and desist orders issued by the Attorney General, the  
19 assessment of punitive damages and the awarding of treble damages  
20 and costs to the injured party.

21

#### 22 **Provisions on digital assets as property**

23 This bill establishes digital assets as property and allows banks  
24 to provide custodial services for digital assets.

25 A digital asset is a representation of an economic, proprietary, or  
26 access right that is stored in a computer readable format, and  
27 includes digital consumer assets, digital securities, and virtual  
28 currency. Under the bill, all digital assets will be classified as  
29 property, with digital consumer assets classified as a general  
30 intangible property, digital securities classified as a security, and  
31 virtual currency classified as money. A digital asset will also be  
32 treated as a financial asset under the bill, if a written agreement is  
33 entered with the owner of the digital asset classifying the asset as  
34 such. If the digital asset is treated as a financial asset, then the  
35 digital asset will remain as intangible personal property.

36 Under the bill, a secured party or an agent, custodian, fiduciary  
37 or trustee of the party with a security interest in a digital asset will  
38 be able to perfect their security interest through control. A secured  
39 party holding a security interest in a digital asset through control  
40 will have priority over a secured party that has a security interest in  
41 the asset but does not have control. Perfection by control will create  
42 a possessory security interest in a digital asset and will not require  
43 physical possession.

44 Additionally, the bill will allow a bank to provide custodial  
45 services of digital assets upon providing 60 days written notice to  
46 the Commissioner of the Department of Banking and Insurance. A  
47 bank that elects serve as a qualified custodian must follow federal



1 Securities and Exchange Commission rules regarding custodial  
2 services and must ensure the following:

3 (1) the implementation of all accounting, account statement,  
4 internal control, notice and other standards specified by applicable  
5 State or federal laws and regulations for custodial services;

6 (2) maintenance of information technology best practices  
7 relating to digital assets held in custody;

8 (3) full compliance with applicable federal anti-money  
9 laundering, customer identification and beneficial ownership  
10 requirements; and

11 (4) other actions necessary to carry out the aforementioned  
12 requirements, which may include exercising fiduciary powers  
13 similar to those permitted to national banks and ensuring  
14 compliance with federal law governing digital assets classified as  
15 commodities.

16 Apart from the requirements above, a bank providing custodial  
17 services will also be required to enter into an agreement with an  
18 independent public accountant to conduct an examination that  
19 conforms to federal regulations concerning custodial services, at the  
20 cost of the bank, pursuant to certain rules and requirements.

21 The bill also provides that digital assets held in custody are not  
22 depository liabilities or assets of the bank. A bank, or its  
23 subsidiary, that holds digital assets in custody will be able to  
24 register as an investment adviser, investment company or broker  
25 dealer as necessary. Banks holding digital assets in custody must  
26 maintain control over a digital asset, with the customer electing,  
27 pursuant to a written agreement with the bank, one of the following  
28 relationships for each digital asset held in custody:

29 (1) custody under a bailment as a nonfungible or fungible asset.  
30 Assets held under this bill will be strictly segregated from other  
31 assets; or

32 (2) custody under a bailment that allows the bank, based on the  
33 customer's instructions, to undertake transactions with the digital  
34 asset.

35 A bank that holds a digital asset in custody under a bailment that  
36 allows the bank to undertake transactions with the digital asset will  
37 not be liable for any loss suffered with respect to any transactions  
38 made, except for liability consistent with fiduciary and trust powers  
39 as a custodian.

40 The bill provides that a bank and a customer must agree in  
41 writing with regard to the source code that the bank will use for  
42 each digital asset, and the treatment of each asset. Any ambiguity  
43 within the agreement will be resolved in favor of the customer. A  
44 bank will be required to provide clear, written notice to each  
45 customer, and require written acknowledgement, of the following:

46 (1) prior to the implementation of any updates, material source  
47 code updates relating to digital assets held in custody, except in  
48 emergencies which may include security vulnerabilities;

1 (2) the heightened risk of loss from transactions with the digital  
2 asset, if the bank is given the instruction from the customer to  
3 undertake transactions with the digital asset;

4 (3) that some risk of loss as a pro rata creditor exists as the  
5 result of custody as a fungible asset;

6 (4) that custody may not result in the digital assets of the  
7 customer being strictly segregated from other customer assets if the  
8 bank is allowed to undertake transactions with the asset; and

9 (5) that the bank is not liable for any losses suffered if the bank  
10 does transact with the asset, with exception for liability consistent  
11 with fiduciary and trust powers as a custodian.

12 A bank and a customer must agree in writing to a time period  
13 within which the bank must return a digital asset held in custody. If  
14 a customer elects to allow the bank to make transactions with the  
15 asset, then the bank and the customer may also agree in writing to  
16 the form in which the digital asset will be returned.

17 The bill provides that all ancillary or subsidiary proceeds relating  
18 to digital assets held in custody will accrue to the benefit of the  
19 customer, except as specified by a written agreement with the  
20 customer. The bank may elect not to collect certain ancillary or  
21 subsidiary proceeds, as long as the election is disclosed in writing.  
22 A customer who elects to custody under a bailment that treats a  
23 digital asset as either fungible or nonfungible may withdraw the  
24 digital asset in a form that permits the collection of ancillary or  
25 subsidiary proceeds.

26 Finally, the bill provides that a bank will be prohibited from  
27 authorizing rehypothecation of digital assets. The bank will not  
28 engage in any activity to use or exercise discretionary authority  
29 relating to a digital asset unless it has the customer's instructions to  
30 do so. A bank will also be prohibited from taking any action which  
31 would likely impair the solvency or the safety and soundness of the  
32 bank, as determined by the commissioner after considering the  
33 nature of custodial services customary in the banking industry.

34

### 35 **Provisions on decentralized autonomous organizations**

36 This bill allows the formation of decentralized autonomous  
37 organizations (DAO) under the State's limited liability company  
38 law.

39 A DAO is an organization controlled by its members with no  
40 central authority. Instead, the organization is governed by a set of  
41 smart contracts built on distributed ledger technology or  
42 blockchain. The smart contracts automate many of the decision-  
43 making processes typically reserved for upper-tier management in a  
44 traditional company.

45 The bill permits DAOs to incorporate as limited liability  
46 companies, and affords DAOs similar protections as are afforded to  
47 limited liability companies under current law.

1 The bill provides a DAO is a limited liability company whose  
2 articles of organization contain a statement that the company is a  
3 decentralized autonomous organization. The bill requires DAOs to  
4 maintain a presence in the State through a registered agent and to  
5 include in its name a designation such as “DAO”, “DAO LLC” or  
6 “LAO”. The bill permits limited liability companies in the State  
7 currently to convert to DAOs by amending their articles of  
8 organization.

9 Under the bill, a DAO may be member managed or  
10 algorithmically managed, as set forth in its articles of organization.  
11 If algorithmically managed, the underlying smart contract must be  
12 able to be updated, modified or otherwise upgraded.

13 The bill provides that the articles of organization or the smart  
14 contracts of the DAO will govern aspects of the organization such  
15 as relations among the members, rights and duties of each member,  
16 voting rights, transferability, distributions and amendments. In  
17 addition, unless provided for in the articles of organization or  
18 operating agreement, no member has any fiduciary duty to the DAO  
19 or any member other than the implied contractual covenant of good  
20 faith and fair dealing.

21

#### 22 **Provisions on blockchain filing system**

23 This bill gives the Division of Revenue and Enterprise Services  
24 in the New Jersey Department of the Treasury the authority to  
25 develop filing system using blockchain through which all required  
26 filings may be submitted. The division is to try to use blockchain  
27 technology and include an application programming interface as  
28 components of the filing system, as well as robust security measures  
29 and other components determined by the division to be best  
30 practices or which are likely to increase the effective and efficient  
31 administration of the laws of this State. The division may create a  
32 blockchain or contract for the use of a privately created blockchain.

33 The division may consult with all interested parties, including  
34 businesses, registered agents, attorneys, law enforcement and other  
35 interested persons, before developing the filing system and if  
36 possible, partner with technology innovators and private companies  
37 to develop necessary components of the system. The division may  
38 also promulgate rules and regulations to effectuate the provisions of  
39 the bill.

40

#### 41 **Exemption for virtual currency from money transmitter law**

42 This bill also exempts virtual currency from current law  
43 governing money transmitters. “Virtual currency” is added to the  
44 law to mean any type of digital representation that: (1) is used as a  
45 medium of exchange, unit of account or store of value; and (2) is  
46 not recognized as legal tender by the United States government.

1 **Authorization for business entity to issue stock as certificate**  
2 **token**

3 This bill authorizes a business entity, such as a corporation or  
4 limited liability company, to issue stock certificates in the form of  
5 electronic certificate tokens.

6 "Certificate token" is defined as an electronic representation of a  
7 share of stock which contains certain information required under  
8 existing law for stock certificates and which is entered into a  
9 blockchain or other secure, auditable database.

10

11 **Business incentives for virtual currency businesses**

12 The bill also provides certain incentives for virtual currency  
13 businesses to locate in New Jersey. The bill exempts receipts from  
14 retail sales of energy and utility service to a virtual currency  
15 servicer or registrant for use or consumption directly and primarily  
16 in the creation of virtual currency, including mining, from the tax  
17 imposed under New Jersey's "Sales and Use Tax Act." The bill  
18 provides that a virtual currency servicer or registrant may file an  
19 application for a sales and use tax exemption with the Director of  
20 the Division of Taxation in the Department of the Treasury.

21 The "Grow New Jersey Assistance Act," N.J.S.A.34:1B-242,  
22 provides certain business and insurance premiums tax credits for  
23 job creation and retention in New Jersey. For the purposes of the  
24 "Grow New Jersey Assistance Act," the bill designates virtual  
25 currency servicers and registrants registered pursuant to this bill's  
26 provisions to be in a "targeted industry" and a "technology startup  
27 company." Therefore, in order for a virtual currency servicer to be  
28 eligible for that program, the minimum number of new or retained  
29 full-time jobs would be a minimum of 10 new or 25 retained full-  
30 time jobs, which is less than is required for certain other types of  
31 business. Virtual currency servicers and registrants would also be  
32 eligible for, in addition to the base amount of the tax credit, an  
33 additional \$5,000 for each new or retained full-time job each year.

34

35 **Allowance for virtual currency in payment of State taxes**

36 Current law, N.J.S.A.54:48-4.3, allows the Director of the  
37 Division of Taxation to establish an electronic funds transfer system  
38 for payments of State taxes. The bill amends the definition of  
39 "electronic funds transfer" to include any transfer of virtual  
40 currency. This change would allow the director to accept virtual  
41 currency in the payment of State taxes.