SENATE, No. 1641

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED FEBRUARY 14, 2022

Sponsored by:
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.

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

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

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

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

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

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

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

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

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

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

Matter underlined <u>thus</u> is new matter.

New Jersey area.

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

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

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

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

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

a. is new to the State;

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

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

d. is filled for more than six months.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. At least 30 days prior to submitting the plan described pursuant to subsection a. of this section, the public institution of higher education shall provide the municipality or municipalities in which the proposed tax-free New Jersey area is located, the applicable public institution of higher education faculty senate, union representatives, and the campus student government with a copy of the plan. Before approving or rejecting the plan submitted by the president or chief executive officer of a public institution of higher education, the board shall provide a copy of the plan to the authority and the Secretary of Higher Education.

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

d. A public institution of higher education may amend its approved plan, provided that the public institution of higher education shall not violate the terms of any lease with a business located in the approved tax-free New Jersey area. If a business located in a tax-free New Jersey area does not have a lease with a public institution of higher education, and the business is terminated from the Innovate New Jersey Program pursuant to section 20 of P.L. , c. (C.) (pending before the Legislature as this bill), and subsequently does not relocate outside of the tax-free New Jersey area, the public institution of higher education may amend its approved plan to allocate an amount of vacant land or space equal to the amount of space occupied by the business that is terminated. The amendment shall be approved pursuant to the procedures and requirements established pursuant to this section.

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

f. A public institution of higher education approved for participation in the Innovate New Jersey Program shall not charge a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. A new business shall be:

(1) in the formative stage of development; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. retail and wholesale businesses;

b. restaurants;

c. real estate brokers;

d. law firms;

e. medical or dental practices;

f. real estate management companies;

g. hospitality-related businesses;

h. finance and financial services;

i. businesses providing personal services;

j. businesses providing business administrative or support services, unless the business has received permission from the authority to apply to participate in the program upon demonstration that the business will create no fewer than 100 net new jobs in a tax-free New Jersey area;

k. accounting firms; and

l. businesses providing utility services or are otherwise engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity.

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

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

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

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

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

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

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

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

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

b. The fund may be credited with:

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

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

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

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

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

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

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

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

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

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

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

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

a. immediately terminated from the program;

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

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

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

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

54:4-3.6. The following property shall be exempt from taxation under this chapter: all buildings actually used for colleges, schools, academies or seminaries, provided that if any portion of **[**such**]** <u>those</u> buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, **[**said**]** <u>that</u> portion<u>, except any building or portion thereof within a tax-free New Jersey area established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill),</u> shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used for historical societies, associations or exhibitions, when owned by the State, county or any political subdivision thereof or when located on land owned by an educational institution which derives its primary support from State revenue; all buildings actually and exclusively used for public libraries, **[**asylum**]** <u>asylums,</u> or schools for adults and children with intellectual disabilities; all buildings used exclusively by any association or corporation formed for the purpose and actually engaged in the work of preventing cruelty to animals; all buildings actually and exclusively used and owned by volunteer first-aid squads, which squads are or shall be incorporated as associations not for pecuniary profit; all buildings actually used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, provided that if any portion of a building used for that purpose is leased to profit-making organizations or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be

subject to taxation and the remaining portion only shall be exempt; all buildings actually used in the work of associations and corporations organized exclusively for religious purposes, including religious worship, or charitable purposes, provided that if any portion of a building used for that purpose is leased to a profit-making organization or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion shall be exempt from taxation, and provided further that if any portion of a building is used for a different exempt use by an exempt entity, that portion shall also be exempt from taxation; all buildings, other than those exempt from taxation pursuant to section 3 of P.L.2021, c.17 (C.54:4-3.6j), actually used in the work of associations and corporations organized exclusively for hospital purposes, provided that if any portion of a building used for hospital purposes is leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings owned or held by an association or corporation created for the purpose of holding the title to ⟦such⟧ those buildings as are actually and exclusively used in the work of two or more associations or corporations organized exclusively for the moral and mental improvement of men, women and children; all buildings owned by a corporation created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and actually and exclusively used in the work of one or more associations or corporations organized exclusively for charitable or religious purposes, which associations or corporations may or may not pay rent for the use of the premises or the portions of the premises used by them; the buildings, not exceeding two, actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises; the land whereon any of the buildings hereinbefore mentioned are erected, and which may be necessary for the fair enjoyment thereof, and which is devoted to the purposes above mentioned and to no other purpose and does not exceed five acres in extent; the furniture and personal property in ⟦said⟧ those buildings if used in and devoted to the purposes above mentioned; all property owned and used by any nonprofit corporation in connection with its curriculum, work, care, treatment and study of men, women, or children with intellectual disabilities shall also be exempt from taxation, provided that ⟦such⟧ the nonprofit corporation conducts and maintains research or professional training facilities for the care and training of men, women, or children with intellectual disabilities; provided, in case of all the foregoing, the buildings, or the lands on which they stand, or the associations, corporations or institutions using and occupying them as aforesaid, are not conducted for profit,

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

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

(cf: P.L.2021, c.17, s.5)

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

STATEMENT

This bill, entitled the "Innovate New Jersey Act," creates the Innovate New Jersey Program (program) to allow public and private colleges, universities, and community colleges in New Jersey to be able to apply to have vacant space or land on their campuses designated as tax-free areas for the purpose of creating incubators for certain new and expanding businesses. The area designated for

a business incubator may be no more than 150,000 square feet at any one college or university and no more than 1.5 million square feet of business incubator space authorized for the State. Participating colleges or universities may not utilize space that is currently being used for academic purposes to open a business incubator. Business incubator programs which currently exist and meet the program's qualifications criteria may apply for approval under the program.

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

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

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

In order to locate in a tax-free area: 1) A new business is to be in the formative stage of development or engaged in the design, development, and introduction of new biotechnology, information technology, remanufacturing, advanced materials, processing, engineering, or electronic technology products, or innovative manufacturing processes, and meet any other requirements for a high technology business as the authority shall develop; 2) the missions and activities of the business are to align with, or further the academic mission of the university or college in the area in which the business seeks to locate; 3) a business will be required to be a new business in the State or an expanding business that creates net new jobs pursuant to a net-benefits test requiring that the business continue to maintain net new jobs and employment numbers of the business and its related companies throughout the

State while in the program; and 4) the business's participation in the program is to have positive community and economic effects.

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

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

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