

# ASSEMBLY, No. 5939

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 21, 2021

**Sponsored by:**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator NILSA I. CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

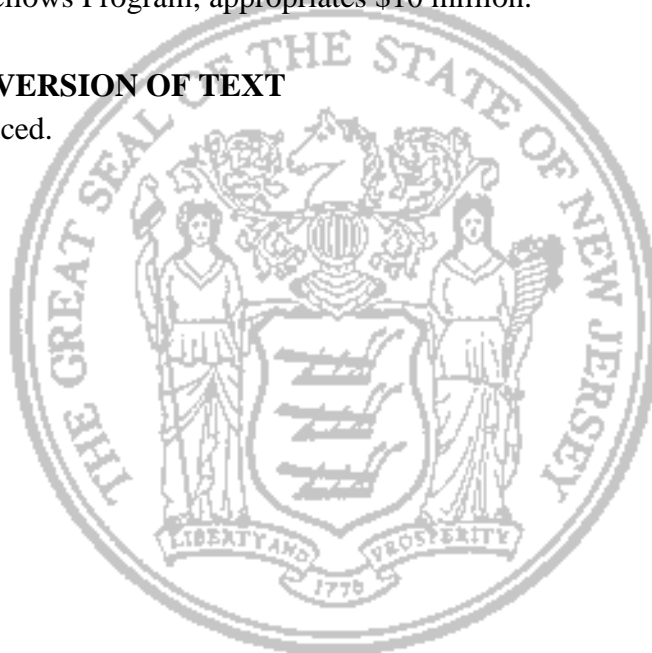
**Senators Oroho and Turner**

**SYNOPSIS**

Revises various provisions of “New Jersey Economic Recovery Act of 2020” and other economic development programs; establishes New Jersey Innovation Fellows Program; appropriates \$10 million.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/30/2021)**

A5939 PINTOR MARIN, BURZICHELLI

2

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

4

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

7

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 "Transformative project" means a property that is:

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

1       **[(b)]** b. individually listed on the New Jersey Register of  
2 Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et  
3 seq.) and which, before the enactment of P.L.2020, c.156 (C.34:1B-  
4 269 et al.), received a Determination of Eligibility from the Keeper  
5 of the National Register of Historic Places in accordance with the  
6 provisions of Part 60 of Title 36 of the Code of Federal  
7 Regulations; **[(c)]** and

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

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

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

15

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

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

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

45       (a) for the rehabilitation of a qualified property located in a  
46 qualified incentive tract or government-restricted municipality, 45  
47 percent of the cost of rehabilitation paid by the business entity for

1 the rehabilitation of the qualified property or \$8 million, whichever  
2 is less;

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

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

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

23 **[(3)]** (4) Prior to approval of an application by the authority, the  
24 authority shall confirm with the Department of Labor and  
25 Workforce Development, the Department of Environmental  
26 Protection, and the Department of the Treasury [shall each report to  
27 the authority] whether the business entity is in substantial good  
28 standing with the respective department [in lieu of submitting  
29 certificates of good standing for the business entity, the business  
30 entity may demonstrate that it] or has entered into an agreement  
31 with the respective department that includes a practical corrective  
32 action plan for the business entity. The business entity shall certify  
33 that any contractors or subcontractors that perform work at the  
34 qualified property or transformative project: a. are registered as  
35 required by “The Public Works Contractor Registration Act,”  
36 P.L.1999, c.238 (C.34:11-56.48 et seq.); b. have not been debarred  
37 by Department of Labor and Workforce Development from  
38 engaging in or bidding on Public Works Contracts in New Jersey,  
39 and c. possess a tax clearance certificate issued by the Division of  
40 Taxation in the Department of the Treasury. The authority may also  
41 contract with an independent third party to perform a background  
42 check on the business entity. Following approval of an application  
43 by the authority, but prior to the start of any construction or  
44 rehabilitation at the qualified property or transformative project, the  
45 authority shall enter into a rehabilitation agreement with the  
46 business entity. The authority shall negotiate the terms and  
47 conditions of the rehabilitation agreement on behalf of the State.

1       **[(4)] (5)** A rehabilitation project shall be eligible for a tax credit  
2 only if the business entity demonstrates to the authority at the time  
3 of application that:

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

6       (b) a project financing gap exists.

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

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

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

35

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

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

46       A certificate issued by the director and the authority shall include  
47 a statement waiving the rights of the business entity to which the

1 tax credit has been granted to claim any amount of remaining credit  
2 against any tax liability.

3 b. A business entity holding an unused, otherwise allowable tax  
4 credit issued pursuant to sections 2 through 8 of P.L.2020, c.156  
5 (C.34:1B-270 through C.34:1B-276) may apply to the director and  
6 the authority for a tax credit transfer certificate pursuant to  
7 subsection a. of this section. Upon receipt thereof, the business  
8 entity may sell or assign, in full or in part, the tax credit transfer  
9 certificate to another taxpayer in exchange for private financial  
10 assistance to be provided by the purchaser or assignee of the tax  
11 credit transfer certificate to the seller thereof. The developer shall  
12 not sell a tax credit transfer certificate allowed under this section  
13 for consideration received by the developer of less than 85 percent  
14 of the transferred credit amount before considering any further  
15 discounting to present value which shall be permitted, except a  
16 developer of a residential project consisting of newly-constructed  
17 residential units that has received federal low income housing tax  
18 credits under 26 U.S.C. **[s.42(b)(2)(B)(i)]** s.42(b)(1)(B)(i) may  
19 assign a tax credit transfer certificate for consideration of no less  
20 than 75 percent subject to the submission of a plan to the authority  
21 and the New Jersey Housing and Mortgage Finance Agency to use  
22 the proceeds derived from the assignment of tax credits to complete  
23 the residential project. The purchaser or assignee of the tax credit  
24 transfer certificate may apply the face value of the tax credit  
25 transfer certificate acquired against the purchaser's or assignee's  
26 applicable tax liability by claiming the tax credit on the purchaser's  
27 or assignee's corporation business tax or insurance premiums tax  
28 return with the corresponding tax credit transfer certificate  
29 accompanying the tax return. A purchaser or assignee of a tax  
30 credit transfer certificate pursuant to this section shall not make any  
31 subsequent transfers, assignments, or sales of the tax credit transfer  
32 certificate.

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

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

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

43

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

46 6. a. The authority shall, in consultation with the officer and  
47 the director, promulgate rules and regulations in accordance with  
48 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et



1 seq.), as the officer deems necessary to administer the provisions of  
2 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through  
3 C.34:1B-276), including but not limited to rules establishing  
4 administrative fees to implement the provisions of sections 2  
5 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),  
6 and setting of an annual application submission date, requiring  
7 annual reporting by each business entity that [receive] receives a  
8 tax credit pursuant to sections 2 through 8 of P.L.2020, c.156  
9 (C.34:1B-270 through C.34:1B-276) [, and requiring those reports  
10 to include certifications by] . As part of the authority's review of  
11 the annual reports required from each business entity that receives a  
12 tax credit, the authority shall confirm with the Department of Labor  
13 and Workforce Development, the Department of Environmental  
14 Protection, and the Department of the Treasury that; the business  
15 entity [, and any contractors or subcontractors performing work at  
16 the qualified property or transformative project, are] is in  
17 substantial good standing with the respective department, or has  
18 entered into an agreement with the respective department that  
19 includes a practical corrective action plan for the business entity,  
20 and the business entity shall certify that any contractors or  
21 subcontractors performing work at the qualified property or  
22 transformative project: (1) are registered as required by "The Public  
23 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-  
24 56.48 et seq.); (2) have not been debarred by Department of Labor  
25 and Workforce Development from engaging in or bidding on Public  
26 Works Contracts in the State; and (3) possess a tax clearance  
27 certificate issued by the Division of Taxation in the Department of  
28 the Treasury. The rules and regulations adopted pursuant to this  
29 section shall also include a provision to require that business  
30 entities forfeit all tax credits awarded in any year in which [any  
31 such report is not received] the Department of Labor and  
32 Workforce Development, the Department of Environmental  
33 Protection, or the Department of the Treasury advises the authority  
34 that the business entity is not in substantial good standing nor has  
35 the business entity entered into an agreement with the respective  
36 department that includes a practical corrective action plan, and to  
37 allow the authority to extend, in individual cases, the deadline for  
38 any annual reporting or certification requirement established  
39 pursuant to this section.

40 b. For every tax credit allowed pursuant to section 4 of  
41 P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with  
42 the officer, shall certify to the director: the total cost of  
43 rehabilitation; that the property meets the definition of qualified  
44 property or transformative project, as applicable; and that the  
45 rehabilitation has been completed in substantial compliance with  
46 the requirements of the Secretary of the Interior's Standards for  
47 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal

1 Regulations. The business entity shall attach the certification to the  
2 tax return on which the business entity claims the credit.

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

14 (2) Notwithstanding the provisions of paragraph (1) of this  
15 subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the  
16 contrary, the authority may approve tax credits, pursuant to sections  
17 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-  
18 276), for the rehabilitation of a transformative project in an amount  
19 that causes the total amount of credits approved during the fiscal  
20 year to exceed the limitations set forth in section 98 of P.L.2020,  
21 c.156 (C.34:1B-362), provided that the amount of the excess shall  
22 be subtracted from the total amount of credits that may be approved  
23 by the authority in the subsequent fiscal year, and the amount of the  
24 excess shall not exceed 50 percent of the total tax credits otherwise  
25 authorized for the fiscal year.

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

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

36

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

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

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

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

46 "Brownfield site" means any former or current commercial or  
47 industrial site that is currently vacant or underutilized and on which

1 there has been, or there is suspected to have been, a discharge of a  
2 contaminant or on which there is contaminated building material.

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

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

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

24 "Department" means the Department of Environmental  
25 Protection.

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

29 "Director" means the Director of the Division of Taxation in the  
30 Department of the Treasury.

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

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

1 "Program" means the Brownfields Redevelopment Incentive  
2 Program established by section 11 of P.L.2020, c.156 (C.34:1B-  
3 279).

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

26 "Qualified incentive tract" means: a. a population census tract  
27 having a poverty rate of 20 percent or more; or b. a census tract in  
28 which the median family income for the census tract does not  
29 exceed 80 percent of the greater of the Statewide median family  
30 income or the median family income of the metropolitan statistical  
31 area in which the census tract is situated.

32 "Redevelopment agreement" means an agreement between the  
33 authority and a developer under which the developer agrees to  
34 perform any work or undertaking necessary for the remediation of a  
35 **【contaminated】** brownfield site located at the site of the  
36 redevelopment project, and for the clearance, development or  
37 redevelopment, construction, reconstruction, or rehabilitation of any  
38 structure or improvement of commercial, industrial, or public  
39 structures or improvements within an area of land whereon a  
40 brownfield site is located.

41 "Redevelopment project" means a specific construction project  
42 or improvement undertaken, pursuant to the terms of a  
43 redevelopment agreement, by a developer within an area of land  
44 whereon a brownfield site is located. A redevelopment project may  
45 involve construction or improvement upon lands, buildings,  
46 improvements, or real and personal property, or any interest therein,  
47 including lands under water, riparian rights, space rights, and air

1 rights, acquired, owned, developed or redeveloped, constructed,  
2 reconstructed, rehabilitated, or improved.

3 "Remediation" or "remediate" means all necessary actions to  
4 investigate and clean up or respond to any known, suspected, or  
5 threatened discharge of contaminants, including, as necessary, the  
6 preliminary assessment, site investigation, remedial investigation,  
7 and remedial action, or any portion thereof, as those terms are  
8 defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and  
9 hazardous materials abatement; hazardous materials or waste  
10 disposal; building and structural remedial activities, including, but  
11 not limited to, demolition, asbestos abatement, polychlorinated  
12 biphenyl removal, contaminated wood or paint removal, or other  
13 infrastructure remedial activities; provided, however, "remediation"  
14 or "remediate" shall not include the payment of compensation for  
15 damage to, or loss of, natural resources.

16 "Remediation costs" means all reasonable costs associated with  
17 the remediation of a contaminated site, except any costs incurred in  
18 financing the remediation.

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

20

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

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

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

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

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

39 (3) without the tax credit, the redevelopment project is not  
40 economically feasible;

41 (4) a project financing gap exists;

42 (5) the developer has obtained and submitted to the authority a  
43 letter evidencing support for the redevelopment project from the  
44 governing body of the municipality in which the redevelopment  
45 project is located; and

46 (6) each worker employed to perform remediation, **[or]**  
47 construction, or building services work at the redevelopment project  
48 shall be paid not less than the prevailing wage rate for the worker's

1 craft or trade, as determined by the Commissioner of Labor and  
2 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-  
3 56.25 et seq.). The prevailing wage requirements shall apply for  
4 remediation or construction work through the completion of the  
5 redevelopment project, and the prevailing wage requirements shall  
6 apply for building services work at the site of the redevelopment  
7 project for 10 years following completion of the redevelopment  
8 project. In the event a redevelopment project, or the aggregate of  
9 all redevelopment projects approved for an award under the  
10 program, constitute a lease of more than 35 percent of a facility, the  
11 prevailing wage requirements shall apply to the entire facility.

12 c. A redevelopment project that received a reimbursement  
13 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
14 through 58:10B-31) shall not be eligible to apply for a tax credit  
15 under the program. If the authority receives an application and  
16 supporting documentation for approval of a reimbursement pursuant  
17 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through  
18 58:10B-31) prior to the effective date of sections 9 through 19 of  
19 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the  
20 authority may consider the application and award a tax credit to a  
21 developer, provided that the authority shall take final action on all  
22 applications for approval of a reimbursement pursuant to sections  
23 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)  
24 no later than July 1, 2019. No applications shall be submitted  
25 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
26 through 58:10B-31) after the effective date of sections 9 through 19  
27 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

28 d. (1) Prior to approval of an application, the authority shall  
29 confirm with the Department of Labor and Workforce  
30 Development, the Department of Environmental Protection, and the  
31 Department of the Treasury **【shall each report to the chief executive**  
32 **officer of the authority】** whether the developer is in substantial  
33 good standing with the respective department, or has entered into an  
34 agreement with the respective department that includes a practical  
35 corrective action plan for the developer. The authority may also  
36 contract with an independent third party to perform a background  
37 check on the developer. The developer shall certify that any  
38 contractors or subcontractors that perform work at the  
39 redevelopment project: (1) are registered as required by “The Public  
40 Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-  
41 56.48 et seq.); (2) have not been debarred by Department of Labor  
42 and Workforce Development from engaging in or bidding on Public  
43 Works Contracts in New Jersey, and (3) possess a tax clearance  
44 certificate issued by the Division of Taxation in the Department of  
45 the Treasury. Provided that the developer is in substantial good  
46 standing with the Department of Labor and Workforce  
47 Development, the Department of Environmental Protection, and the  
48 Department of the Treasury, or has entered into such an agreement,

1 and following approval of an application by the board, the authority  
2 shall enter into a redevelopment agreement with the developer, as  
3 provided for in section 13 of P.L.2020, c.156 (C.34:1B-281).

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

12 e. The authority, in consultation with the department, shall  
13 conduct a review of the applications through a competitive  
14 application process whereby the authority and the department shall  
15 evaluate all applications submitted by a date certain, as if all  
16 received applications were submitted on that date. In addition to  
17 the eligibility criteria set forth in subsection b. of this section, the  
18 authority, in consultation with the department, may consider  
19 additional factors that may include, but shall not be limited to: the  
20 economic feasibility of the redevelopment project; the benefit of the  
21 redevelopment project to the community in which the remediation  
22 project is located; the degree to which the redevelopment project  
23 enhances and promotes job creation and economic development and  
24 reduces environmental or public health stressors in an overburdened  
25 community, as those terms are defined by section 2 of **[P.L.2020,**  
26 **c.92 (C.13:1D-157)]** P.L.2020, c.92 (C.13:1D-158), and attendant  
27 department regulations; and, if the developer has a board of  
28 directors, the extent to which that board of directors is diverse and  
29 representative of the community in which the redevelopment project  
30 is located. The authority, in consultation with the department, shall  
31 submit applications that comply with the eligibility criteria set forth  
32 in this section, fulfill the additional factors considered by the  
33 authority pursuant to this subsection, satisfy the submission  
34 requirements, and provide adequate information for the subject  
35 application, to the board for final approval.

36 f. The authority shall award tax credits to redevelopment  
37 projects until either the available tax credits are exhausted or all  
38 redevelopment projects that are eligible for a tax credit pursuant to  
39 the provisions of sections 9 through 19 of P.L.2020, c.156  
40 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever  
41 occurs first. If insufficient funding exists to allow a tax credit to a  
42 developer in accordance with the provisions of subsection a. of  
43 section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may  
44 offer the developer a value of the tax credit below the amount  
45 provided for in subsection a. of section 16 of P.L.2020, c.156  
46 (C.34:1B-284).

47 g. A developer shall pay to the authority or to the department,  
48 as appropriate, the full amount of the direct costs of an analysis

1 concerning the developer's application for a tax credit, which a  
2 third party retained by the authority or department performs, if the  
3 authority or department deems such retention to be necessary.

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

7 i. If circumstances require a developer to amend its application  
8 to the authority, then the developer, or an authorized agent of the  
9 developer, shall certify to the authority that the information  
10 provided in its amended application is true, under the penalty of  
11 perjury.

12 j. A developer **【that】** who has commenced remediation or  
13 clean up at the site and who could not reasonably have known the  
14 full extent of the site contamination **【when the developer of a**  
15 **redevelopment project prior to application】** prior to commencing  
16 the remediation may still apply for a tax credit under the program, if  
17 the developer certifies to the authority, under the penalty of perjury,  
18 that the developer **【could not】** cannot reasonably **【have**  
19 **commenced】** finish the remediation and commence the  
20 redevelopment project absent the tax credit.

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

22

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

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

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

39 c. The authority shall not enter into a redevelopment agreement  
40 with a developer unless:

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



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

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

12 d. The authority shall not enter into a redevelopment agreement  
13 unless the developer demonstrates, to the satisfaction of the  
14 Department of Environmental Protection, that the developer did not  
15 discharge a hazardous substance at the brownfield site proposed to  
16 be in the redevelopment agreement, is not in any way responsible  
17 for the hazardous substance, and is not a corporate successor to the  
18 discharger or to any person in any way responsible for the  
19 hazardous substance or to anyone liable for cleanup and removal  
20 costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

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

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

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

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

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

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

31 h. A developer shall submit to the authority satisfactory  
32 evidence of the actual remediation costs, as certified by a certified  
33 public accountant, and a Licensed Site Remediation Professional for  
34 costs under the jurisdiction of the "Site Remediation Reform Act,"  
35 sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as  
36 applicable, other appropriate licensed or certified professional for  
37 costs that are not under the jurisdiction of the "Site Remediation  
38 Reform Act," evidence of completion of the remediation as  
39 demonstrated by a Response Action Outcome where the  
40 remediation is subject to the "Site Remediation Reform Act," a  
41 certification from the appropriate licensed or certified professional  
42 for other remedial activities, and a certification that all information  
43 provided by the developer to the authority is true, including  
44 information contained in the application, the redevelopment  
45 agreement, any amendment to the redevelopment agreement, and  
46 any other information submitted by the developer to the authority  
47 pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277  
48 through C34:1B-287). The developer, or an authorized agent of the

1 developer, shall certify under the penalty of perjury that the  
2 information provided pursuant to this subsection is true.

3 i. The redevelopment agreement shall include a **【requirement**  
4 **that the chief executive officer of the authority receive annual**  
5 **reports from】** provision allowing the authority to recapture the tax  
6 credits for any year in which the Department of Environmental  
7 Protection, the Department of Labor and Workforce Development,  
8 **【and】** or the Department of the Treasury that 【demonstrate】  
9 advises the authority that the developer 【, and each contractors and  
10 subcontractor performing work on the redevelopment project,】 is  
11 not in substantial good standing with the respective department,  
12 **【or】** nor has the developer entered into an agreement with the  
13 respective department that includes a practical corrective action  
14 plan for the developer. The redevelopment agreement shall also  
15 include a provision allowing authority to recapture the tax credits  
16 for any year in which **【any such report is not received】** the  
17 developer fails to confirm that each contractor or subcontractor  
18 performing work at the redevelopment project: (1) is registered as  
19 required by “The Public Works Contractor Registration Act,”  
20 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred  
21 by Department of Labor and Workforce Development from  
22 engaging in or bidding on Public Works Contracts in New Jersey,  
23 and (3) possesses a tax clearance certificate issued by the Division  
24 of Taxation in the Department of the Treasury. The redevelopment  
25 agreement shall also require a developer to engage in on-site  
26 consultations with the Division of Workplace Safety and Health in  
27 the Department of Health.

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

29

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

32 16. a. Upon completion of the **【redevelopment project】**  
33 remediation, the developer shall seek certification from the  
34 department that:

35 (1) the **【redevelopment project】** remediation is complete;

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

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

42 Upon receipt of certification, and confirmation by the authority  
43 that the developer's obligations under the redevelopment agreement  
44 have been met, a developer shall be awarded a credit against the tax  
45 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
46 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),  
47 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as

1 follows: (a) for project located in a qualified incentive tract or  
2 government-restricted municipality, in an amount not to exceed 60  
3 percent of the actual remediation costs, or 60 percent of the  
4 projected remediation costs as set forth in the redevelopment  
5 agreement, or \$8,000,000, whichever is least; and (b) for all other  
6 projects, in an amount not to exceed [40] 50 percent of the actual  
7 remediation costs, or [40] 50 percent of the projected remediation  
8 costs as set forth in the redevelopment agreement, or \$4,000,000,  
9 whichever is least. The developer, or an authorized agent of the  
10 developer, shall certify that the information provided to the  
11 department and the authority pursuant to this subsection is true  
12 under the penalty of perjury.

13 b. When filing an application for certification pursuant to  
14 subsection a. of this section, the developer shall submit to the  
15 department: (1) the total remediation costs incurred by the  
16 developer for the remediation of the subject property located at the  
17 site of the redevelopment project, as provided in the redevelopment  
18 agreement, and certified by a certified public accountant, and a  
19 Licensed Site Remediation Professional for costs under the  
20 jurisdiction of the "Site Remediation Reform Act," sections 1  
21 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as  
22 applicable, other appropriate licensed or certified professional for  
23 costs that are not under the jurisdiction of the "Site Remediation  
24 Reform Act"; (2) evidence of completion of the remediation, as  
25 demonstrated by a Response Action Outcome where the  
26 remediation is subject to the "Site Remediation Reform Act"; (3) a  
27 certification from the appropriate licensed or certified professional  
28 for other remedial activities; (4) information concerning the  
29 occupancy rate of the buildings or other work areas located on the  
30 property subject to the redevelopment agreement [,] ; and (5) such  
31 other information as the department deems necessary in order to  
32 make the certifications and findings pursuant to this section.

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

41 d. The director shall prescribe the order of priority of the  
42 application of the credit awarded under this section and any other  
43 credits allowed by law against the tax imposed under section 5 of  
44 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
45 under this section against the tax imposed pursuant to section 5 of  
46 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
47 any other credits allowed by law, shall not reduce the tax liability to

1 an amount less than the statutory minimum provided in subsection  
2 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

3 (cf: P.L.2020, c.156, s.16)

4

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

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

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

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

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

47 (1) the name of the transferor;

48 (2) the name of the transferee;

- 1 (3) the value of the tax credit transfer certificate;  
2 (4) the State tax against which the transferee may apply the tax  
3 credit; and  
4 (5) the consideration received by the transferor.  
5 (cf: P.L.2020, c.156, s.17)  
6

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

9 19. Notwithstanding the provisions of the "Administrative  
10 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
11 contrary, the chief executive officer of the authority, in consultation  
12 with the Commissioner of Environmental Protection, may adopt,  
13 immediately upon filing with the Office of Administrative Law,  
14 regulations that the chief executive officer and commissioner deem  
15 necessary to implement the provisions of sections 9 through 19 of  
16 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which  
17 regulations shall be effective for a period not to exceed **[180]** 360  
18 days from the date of the filing. The chief executive officer, in  
19 consultation with the Commissioner of Environmental Protection,  
20 shall thereafter amend, adopt, or readopt the regulations in  
21 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
22 et seq.). The rules shall require annual reporting by developers that  
23 receive tax credits pursuant to the program, in addition to the  
24 regular progress updates. **[Developers]** As part of the authority's  
25 review of the annual reports required from a developer, the  
26 authority shall [obtain certifications by] confirm with the  
27 Department of Labor and Workforce Development, the Department  
28 of Environmental Protection, and the Department of the Treasury  
29 **[stating]** that the developer is in substantial good standing with the  
30 respective department, or has entered into an agreement with the  
31 respective department that includes a practical corrective action  
32 plan, and the developer shall certify that any contractors or  
33 subcontractors performing work at the redevelopment project: (1)  
34 are registered as required by "The Public Works Contractor  
35 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have  
36 not been debarred by Department of Labor and Workforce  
37 Development from engaging in or bidding on Public Works  
38 Contracts in New Jersey, and (3) possess a tax clearance certificate  
39 issued by the Division of Taxation in the Department of the  
40 Treasury. The rules and regulations adopted pursuant to this  
41 section shall also include a provision to require that **[developers]** ,  
42 in any year in which the developer is not in substantial good  
43 standing with the Department of Labor and Workforce  
44 Development, the Department of Environmental Protection, or the  
45 Department of the Treasury, the developer may forfeit all tax credits  
46 awarded in [any] that year [in which any such report is not  
47 received], and to allow the authority to extend, in individual cases,

1 the deadline for any annual reporting **【or certification】** requirement  
2 established pursuant to this section.

3 (cf: P.L.2020, c.156, s.19)

4

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

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

10 b. The authority shall determine the form and manner in which  
11 potential purchasers may bid for tax credits available under the  
12 program. To be awarded a tax credit under the program, a potential  
13 purchaser shall:

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

16 (2) specify the amount the potential purchaser will pay in  
17 exchange for the requested amount of tax credits, which shall not be  
18 less than **【85】** 75 percent of the requested dollar amount of tax  
19 credits;

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

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

27 c. Prior to an auction, the authority shall establish and disclose  
28 to bidders the weighted criteria the authority will utilize, which the  
29 authority shall base on the price offered to purchase the tax credits  
30 and the quality of the mentorship and networking opportunities and  
31 other support of the State's innovation ecosystem offered by a  
32 purchaser in its bid. The authority may pro rate the amount of tax  
33 credits allocated to each purchaser. A potential purchaser that  
34 submits a bid for tax credits under this section shall receive a  
35 written notice from the authority indicating whether the authority  
36 has approved it as a purchaser of tax credits and, if so, the amount  
37 of tax credits approved.

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

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

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

45

46 12. Section 29 of P.L.2020, c.156 (C.34:1B-297) is amended to  
47 read as follows:

1       29. a. The authority shall certify or refuse to certify a venture  
2 firm as a qualified venture firm based on the criteria for  
3 certification set forth in section 28 of P.L.2020, c.156 (C.34:1B-  
4 296), and subsections b. and c. of this section.

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

18       c. Prior to certifying a venture firm as a qualified venture firm,  
19 the authority shall confirm with the Department of Labor and  
20 Workforce Development, the Department of Environmental  
21 Protection, and the Department of the Treasury **【shall each report to**  
22 **the chief executive officer of the authority】** whether the venture  
23 firm is in substantial good standing with the respective department,  
24 or has entered into an agreement with the respective department that  
25 includes a practical corrective action plan for the venture firm. The  
26 authority may also contract with an independent third party to  
27 perform a background check on the venture firm.

28       d. The authority shall provide written notification to each  
29 venture firm that is certified as a qualified venture firm by the  
30 authority and shall provide written notification to each venture firm  
31 that the authority refuses to certify as a qualified venture firm,  
32 communicating in detail the grounds for the authority's refusal. The  
33 authority shall review each qualified venture firm annually for the  
34 disqualifying criteria set forth in subsection b. of this section or  
35 other reasonable industry-accepted standards as determined by the  
36 authority. The authority may decertify a qualified venture firm at  
37 any time pursuant to the disqualifying criteria set forth in  
38 subsection b. of this section. Decertification shall not affect any  
39 previously made qualified investment or the fund's commitment to  
40 make a follow-on investment in a qualified business.

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

42  
43       13. Section 37 of P.L.2020, c.156 (C.34:1B-305) is amended to  
44 read as follows:

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



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

4 "Department" means the Department of Agriculture.

5 "Eligible equipment costs" means expenditures for the  
6 procurement of such equipment as is needed to allow a  
7 supermarket, grocery store, mid-sized food retailer, **[or]** small food  
8 retailer, or other eligible entity to store, refrigerate, transport, or  
9 otherwise maintain nutritious foods, including fresh fruits and  
10 vegetables, for retail purposes, but within a standard range based  
11 upon industry standards, as determined by the authority.

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

16 "Food desert community" means a physically contiguous area in  
17 the State in which residents have limited access to nutritious foods,  
18 such as fresh fruits and vegetables, **[through supermarkets and**  
19 **grocery stores,]** and which has been designated as a food desert  
20 community pursuant to subsection b. of section 38 of P.L.2020,  
21 c.156 (C.34:1B-306).

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

26 "Mid-sized food retailer" means a medium-sized retail outlet  
27 with at least 2,500 but less than 16,000 square feet, of which at least  
28 75 percent is occupied by food and related products.

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

31 "Project cost" means the costs incurred in connection with the  
32 establishment of a supermarket or grocery store within a food desert  
33 community by the developer until the opening of the supermarket or  
34 grocery store to the public, including the costs relating to lands,  
35 buildings, improvements, real or personal property, or any interest  
36 therein, including leases discounted to present value, including  
37 lands under water, riparian rights, space rights and air rights  
38 acquired, owned, developed or redeveloped, constructed,  
39 reconstructed, rehabilitated or improved, any environmental  
40 remediation costs, plus costs not directly related to construction,  
41 including capitalized interest paid to third parties, of an amount not  
42 to exceed 20 percent of the total costs, **[capitalized interest paid to**  
43 **third parties,]** and the cost of infrastructure improvements,  
44 including ancillary infrastructure projects.

45 "Project financing gap" means the part of the total project cost,  
46 including return on investment, that remains to be financed after all  
47 other sources of capital have been accounted for, including, but not

1 limited to, developer-contributed capital, which shall not be less  
2 than 20 percent of the total project cost, which may include the  
3 value of any existing land and improvements in the project area  
4 owned or controlled by the developer, and the cost of infrastructure  
5 improvements in the public right-of-way, and investor or financial  
6 entity capital or loans for which the developer, after making all  
7 good faith efforts to raise additional capital, certifies that additional  
8 capital cannot be raised from other sources on a non-recourse basis.

9 "Small food retailer" means a small retail outlet, with less than  
10 2,500 square feet, that sells a limited selection of foods and other  
11 products, such as a bodega, convenience store, corner store,  
12 neighborhood store, small grocery, mobile food vendor, farmers'  
13 market, food co-op, or small-scale store.

14 "Supermarket or grocery store" means a retail outlet with at least  
15 16,000 square feet, of which at least 90 percent is occupied by food  
16 and related products.

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

18  
19 14. Section 38 of P.L.2020, c.156 (C.34:1B-306) is amended to  
20 read as follows:

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

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

32 b. The authority, in consultation with the Department of  
33 Agriculture and the Department of Community Affairs, shall  
34 initially designate not more than 50 separate geographic areas that  
35 **【are most in need of a supermarket or grocery store】** have limited  
36 access to nutritious foods as food desert communities in this State.  
37 The authority, in consultation with the Department of Agriculture  
38 and the Department of Community Affairs, shall develop criteria for  
39 the designation of food desert communities, but each separate food  
40 desert community shall consist of a distinct geographic area with a  
41 single defined border. The criteria shall, at a minimum, incorporate  
42 analysis of municipal or census tract poverty statistics, food desert  
43 information from the Economic Research Service of the United  
44 States Department of Agriculture, **【and】** healthier food retail tract  
45 information from the federal Centers for Disease Control and  
46 Prevention, and residents' access to nutritious foods, such as fresh  
47 fruits and vegetables, through supermarkets and grocery stores. The  
48 authority, in consultation with the departments, may also consider

1 in making food desert community designations pursuant to this  
2 subsection, data related to municipal or census tract population size  
3 and population density **【in making food desert community**  
4 **designations pursuant to this subsection】**, the number of residents  
5 who receive Supplemental Nutrition Assistance Program (SNAP)  
6 benefits within a municipality, the extent to which a municipality's  
7 residents have access to a personal vehicle, and a municipality's  
8 Municipal Revitalization Index distress score, obesity rate, and  
9 unemployment rate. The authority, in consultation with the  
10 departments, shall continuously evaluate areas previously  
11 designated as food desert communities and assess whether they still  
12 meet the criteria for designation as a food desert community and  
13 may designate additional food desert communities once every three  
14 years following the effective date of sections 35 through 42 of  
15 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

16 c. To receive a tax credit under section 39 or 40 of P.L.2020,  
17 c.156 (C.34:1B-307 or C.34:1B-308), a taxpayer shall submit an  
18 application to the authority in the form and manner prescribed by  
19 the authority and in accordance with criteria established by the  
20 authority, which at minimum will include a commitment to accept  
21 benefits from federal nutrition assistance programs, such as the  
22 Supplemental Nutrition Assistance Program (SNAP) and the  
23 Special Supplemental Nutrition Program for Women, Infants, and  
24 Children (WIC). Following the approval of an application, the  
25 authority may, pursuant to an award agreement, award tax credits to  
26 an eligible taxpayer that:

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

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

32 d. (1) The authority may sell all or a portion of the tax credits  
33 made available in a fiscal year pursuant to subsection a. of this  
34 section and dedicate the proceeds from such sale to provide grants  
35 and loans to qualifying supermarkets, grocery stores, mid-sized  
36 food retailers, **【and】** small food retailers, and any other eligible  
37 entity. The amount of any grant or loan provided pursuant to this  
38 subsection shall be in accordance with the need of the supermarket,  
39 grocery store, mid-sized food retailer, **【or】** small food retailer, or  
40 any other eligible entity, as determined by the authority. The  
41 authority shall sell tax credits pursuant to this section in the manner  
42 determined by the authority; provided, however, the authority shall  
43 not sell tax credits for less than 85 percent of the tax credit amount.  
44 Grants and loans made available pursuant to this subsection shall be  
45 awarded to entities that:

46 (a) are eligible for tax credits under subsection c. of this section  
47 in lieu of tax credits; **【or】**

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

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

6 (2) A supermarket, grocery store, mid-sized food retailer, **[or]**  
7 small food retailer, or other eligible entity shall submit an  
8 application to the authority to receive a grant or loan pursuant to  
9 this subsection. The application shall be submitted in the form and  
10 manner prescribed by the authority and in accordance with criteria  
11 established by the authority. An entity eligible for a grant or loan  
12 under subparagraph (a) of paragraph (1) of this subsection shall not  
13 be required to submit a separate application to the authority for the  
14 grant or loan, provided that the entity has submitted an application  
15 to the authority pursuant to subsection c. of this section.

16 (3) Prior to awarding a grant or loan to an applicant  
17 supermarket, grocery store, mid-sized food retailer, **[or]** small food  
18 retailer, or other eligible entity pursuant to this subsection, the  
19 authority shall confirm with the Department of Labor and  
20 Workforce Development, the Department of Environmental  
21 Protection, and the Department of the Treasury **[shall each report to**  
22 **the chief executive officer of the authority]** whether the applicant is  
23 in substantial good standing with the respective department, or has  
24 entered into an agreement with the respective department that  
25 includes a practical corrective action plan for the applicant. The  
26 applicant shall certify that any contractors or subcontractors that  
27 perform work at the qualifying supermarket or grocery store: (1) are  
28 registered as required by “The Public Works Contractor  
29 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have  
30 not been debarred by Department of Labor and Workforce  
31 Development from engaging in or bidding on Public Works  
32 Contracts in the State; and (3) possess a tax clearance certificate  
33 issued by the Division of Taxation in the Department of the  
34 Treasury. The authority may also contract with an independent  
35 third party to perform a background check on the entity.

36 (4) An applicant supermarket, grocery store, mid-sized food  
37 retailer, **[or]** small food retailer, or other eligible entity shall, as  
38 required at the discretion of the authority, submit to the authority  
39 satisfactory information pertaining to the eligible equipment costs  
40 and eligible technology costs, as certified by a certified public  
41 accountant, certifications that all information provided by the  
42 applicant to the authority is true, including information contained in  
43 the application, any agreement pertaining to the award of grants or  
44 loans under the program, any amendment to such an agreement, and  
45 any other information submitted by the applicant to the authority  
46 pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303  
47 through C.34:1B-310), and evidence of the eligible equipment costs

1 and eligible technology costs of the applicant. The applicant, or an  
2 authorized agent of the applicant, shall certify under the penalty of  
3 perjury that the information provided pursuant to this subsection is  
4 true.

5 e. The authority may establish a technical assistance fund to  
6 assist any entity that is eligible for a tax credit, grant, or loan under  
7 this section. The authority, through the technical assistance fund,  
8 may make grants to entities to assist qualifying supermarkets,  
9 grocery stores, mid-sized food retailers, **[or]** small food retailers, or  
10 other eligible entities in implementation of best practices for  
11 increasing the accessibility of nutritious foods in food desert  
12 communities. Technical assistance shall be provided either directly  
13 by the authority or through a not-for-profit or for-profit entity and  
14 made available in English as well as the two most commonly  
15 spoken languages in New Jersey other than English. At the  
16 discretion of the authority, funds to support technical assistance  
17 may be provided in addition to, or in lieu of, any tax credit, grant,  
18 or loan awarded under sections 35 through 42 of P.L.2020, c.156  
19 (C.34:1B-303 through C.34:1B-310).

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

24 (a) to mitigate a project financing gap;

25 (b) to mitigate the initial operating costs of the supermarket or  
26 grocery store; or

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

32 (d) to support initiatives to ensure food security of residents in  
33 food desert communities.

34 (2) The value of tax credits **[or]** grants, or loans awarded to  
35 individual entities under the program shall not exceed:

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

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

46 (c) in the case of an entity eligible for a grant or loan under  
47 subparagraph (b) of paragraph (1) of subsection d. of this section,  
48 the eligible equipment costs and eligible technology costs of the

1 supermarket, grocery store, mid-sized food retailer, **[or]** small food  
2 retailer, or other eligible entity.

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

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

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

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

1 i. A recipient shall certify that all factual representations made  
2 by the recipient in the application or award agreement are true  
3 under the penalty of perjury. A material misrepresentation of fact  
4 in either the application or award agreement may result in recession  
5 and recapture of any grants or tax credits awarded, or acceleration  
6 of any loans made, under sections 35 through 42 of P.L.2020, c.156  
7 (C.34:1B-303 through C.34:1B-310).  
8 (cf: P.L.2020, c.156, s.38)  
9

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

12 39. a. For privilege periods beginning on or after January 1 next  
13 following the effective date of sections 35 through 42 of P.L.2020,  
14 c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible  
15 under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306)  
16 shall be awarded a credit against the tax due pursuant to section 5 of  
17 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132  
18 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231  
19 (C.17:32-15), or N.J.S.17B:23-5. A taxpayer that qualifies for the  
20 award of a tax credit under this section may claim 25 percent of the  
21 total amount awarded in the privilege period in which the taxpayer  
22 establishes and opens the supermarket or grocery store for business,  
23 and an additional 25 percent of the total amount awarded in each of  
24 the three privilege periods next following the initial opening,  
25 provided that the supermarket or grocery store remains in business  
26 and open to the public. For a taxpayer to be allowed a tax credit  
27 pursuant to this section, the taxpayer shall meet the requirements of  
28 this section, and the rules and regulations adopted pursuant to  
29 section 41 of P.L.2020, c.156 (C.34:1B-309).

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

43 c. The authority shall award tax credits to taxpayers until either  
44 the available tax credits are exhausted or all projects that are  
45 eligible for a tax credit pursuant to the provisions of sections 35  
46 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310)  
47 receive a tax credit, whichever occurs first. If insufficient funding  
48 exists to allow a tax credit to a taxpayer in accordance with the

1 provisions of subsection a. of section 38 of P.L.2020, c.156  
2 (C.34:1B-306), the authority may offer the taxpayer a tax credit in  
3 an amount less than that provided in subsection a. of this section.

4 d. Prior to awarding a tax credit to a supermarket or grocery  
5 store, the authority shall confirm with the Department of Labor and  
6 Workforce Development, the Department of Environmental  
7 Protection, and the Department of the Treasury **[shall each report to**  
8 **the chief executive officer of the authority whether]** that the  
9 qualifying supermarket or grocery store is in substantial good  
10 standing with the respective department, or has entered into an  
11 agreement with the respective department that includes a practical  
12 corrective action plan for the supermarket or grocery store, and the  
13 qualifying supermarket or grocery store shall certify that any  
14 contractors or subcontractors performing work at the qualifying  
15 supermarket or grocery store: (1) are registered as required by “The  
16 Public Works Contractor Registration Act,” P.L.1999, c.238  
17 (C.34:11-56.48 et seq.); (2) have not been debarred by Department  
18 of Labor and Workforce Development from engaging in or bidding  
19 on Public Works Contracts in the State; and (3) possess a tax  
20 clearance certificate issued by the Division of Taxation in the  
21 Department of the Treasury. The authority may also contract with  
22 an independent third party to perform a background check on the  
23 developer.

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

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

41

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

44 40. a. For taxable years beginning on or after January 1 next  
45 following the effective date of sections 35 through 42 of P.L.2020,  
46 c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible  
47 under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306)  
48 shall be awarded a credit against the tax due pursuant to



1 N.J.S.54A:1-1 et seq. A taxpayer that qualifies for the award of a  
2 tax credit under this section may claim 25 percent of the total  
3 amount awarded in the taxable year in which the taxpayer  
4 establishes and opens the supermarket or grocery store for business,  
5 and may claim 25 percent of the total amount awarded in each of  
6 the three taxable years next following the initial opening, provided  
7 that the supermarket or grocery store remains in business and open  
8 to the public. For a taxpayer to be awarded a tax credit pursuant to  
9 this section, the taxpayer shall meet the requirements of this  
10 section, and the rules and regulations adopted pursuant to section 41  
11 of P.L.2020, c.156 (C.34:1B-309).

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

24 c. A business entity that is classified as a partnership for  
25 federal income tax purposes shall not be allowed the credit directly  
26 under N.J.S.54A:1-1 et seq., but the amount of credit of the  
27 taxpayer in respect of a distributive share of partnership income  
28 shall be determined by allocating to the taxpayer that proportion of  
29 the credit acquired by the partnership that is equal to the taxpayer's  
30 share, whether or not distributed, of the total distributive income or  
31 gain of the partnership for its taxable year ending within or with the  
32 taxpayer's taxable year.

33 A taxpayer that is a New Jersey S corporation shall not be  
34 allowed the credit directly under N.J.S.54A:1-1 et seq., but the  
35 amount of credit of a taxpayer in respect of a pro rata share of S  
36 corporation income shall be determined by allocating to the  
37 taxpayer that proportion of the credit acquired by the New Jersey S  
38 corporation that is equal to the taxpayer's share, whether or not  
39 distributed, of the total pro rata share of S corporation income of the  
40 New Jersey S corporation for its taxable year ending within or with  
41 the taxpayer's taxable year.

42 d. The authority shall award tax credits to taxpayers until either  
43 the available tax credits are exhausted or all projects that are  
44 eligible for a tax credit pursuant to the provisions of sections 35  
45 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310)  
46 receive a tax credit, whichever occurs first. If insufficient funding  
47 exists to allow a tax credit to a taxpayer in accordance with the  
48 provisions of subsection a. of section 38 of P.L.2020, c.156

1 (C.34:1B-306), the authority may offer the taxpayer a tax credit in  
2 an amount less than that provided in subsection a. of this section  
3 **[40]**.

4 e. Prior to awarding a tax credit to a supermarket or grocery  
5 store, the authority shall confirm with the Department of Labor and  
6 Workforce Development, the Department of Environmental  
7 Protection, and the Department of the Treasury **[shall each report to**  
8 **the chief executive officer of the authority whether a]** that the  
9 qualifying supermarket or grocery store **[, and each contractor and**  
10 **subcontractor performing construction work at the qualifying**  
11 **supermarket or grocery store,]** is in substantial good standing with  
12 the respective department, or has entered into an agreement with the  
13 respective department that includes a practical corrective action  
14 plan, and the qualifying supermarket or grocery store shall confirm  
15 that any contractors and subcontractors performing construction  
16 work at the qualifying supermarket or grocery store: (1) are  
17 registered as required by “The Public Works Contractor  
18 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have  
19 not been debarred by Department of Labor and Workforce  
20 Development from engaging in or bidding on Public Works  
21 Contracts in the State; and (3) possesses a tax clearance certificate  
22 issued by the Division of Taxation in the Department of the  
23 Treasury. The authority may also contract with an independent  
24 third party to perform a background check on the **[developer]**  
25 qualifying supermarket or grocery store.

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

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

43

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

46 41. **[The]** Notwithstanding the provisions of the  
47 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et

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

14

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

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

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

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

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

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

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

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

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

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

47 "Director" means the Director of the Division of Taxation in the  
48 Department of the Treasury.

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

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

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

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

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

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

47 "Partner anchor institution" means an anchor institution that  
48 partners with one or more anchor institutions to make an equity

1 investment in or to provide a loan or other financial support for a  
2 community-anchored project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41       (4) the value of the tax credit that is necessary in each year of  
42 the eligibility period, in order for the anchor institution and, if  
43 applicable, each partner anchor institution to finance the  
44 establishment of the community-anchored project;

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

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

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

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

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

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

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

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

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



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

7 c. Prior to the board considering an application submitted by an  
8 anchor institution and, if applicable, each partner anchor institution,  
9 the authority shall confirm with the Department of Labor and  
10 Workforce Development, the Department of Environmental  
11 Protection, and the Department of the Treasury **【shall each report to**  
12 **the chief executive officer of the authority】** whether the anchor  
13 institution and, if applicable, each partner anchor institution and any  
14 partner business is in substantial good standing with the respective  
15 department, or has entered into an agreement with the respective  
16 department that includes a practical corrective action plan. The  
17 anchor institution shall certify that any contractors or  
18 subcontractors that will perform work at the community-anchored  
19 project: (1) are registered as required by “The Public Works  
20 Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et  
21 seq.); (2) have not been debarred by Department of Labor and  
22 Workforce Development from engaging in or bidding on Public  
23 Works Contracts in the State; and (3) possess a tax clearance  
24 certificate issued by the Division of Taxation in the Department of  
25 the Treasury. The authority may also contract with an independent  
26 third party to perform a background check on an anchor institution  
27 and, if applicable, each partner anchor institution and any partner  
28 business.

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

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

35  
36 20. Section 49 of P.L.2020, c.156 (C.34:1B-317) is amended to  
37 read as follows:

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

43 b. (1) The authority shall review applications for tax credits  
44 submitted to the authority by the deadline date of the award round  
45 and shall evaluate each application as if it were received on the  
46 deadline date, without providing any preference for early  
47 submissions. To determine priority for an award of a tax credit, all  
48 applications for community-anchored projects that satisfy the

1 criteria set forth in sections 47 and 48 of P.L.2020, c.156 (C.34:1B-  
2 315 and C.34:1B-316) in a given award round shall be ranked on  
3 the basis of a scoring system developed by the authority through  
4 regulations adopted pursuant to the provisions of the  
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
6 seq.). Prior to the commencement of an award round, the authority  
7 shall determine the minimum score for the award round that an  
8 anchor institution or, if applicable, each partner anchor institution is  
9 required to attain to be eligible for a tax credit.

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

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

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

28 (2) the financial benefit of the community-anchored project to  
29 the community in which the community-anchored project will be  
30 located;

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

33 (4) the ability of the community-anchored project to absorb and  
34 adapt to changing environmental conditions and deliver its  
35 objectives;

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

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

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

43 (8) the extent of economic and related social distress in the  
44 municipality and the immediate area surrounding the community-  
45 anchored project;

46 (9) the extent to which the community-anchored project  
47 provides for the development of **workforce housing and** housing  
48 for individuals with special needs;

- 1 (10) the extent to which the community-anchored project  
2 constitutes the expansion of the anchor institution and, if applicable,  
3 each partner anchor institution to different areas of the State;
- 4 (11) the extent to which the community-anchored project  
5 provides for infrastructure, parking, retail, green space, or other  
6 public amenities creating a mixed-use community-anchored project;
- 7 (12) the inclusion of a qualified business accelerator or incubator  
8 facility as a part of the community-anchored project;
- 9 (13) the length of the commitment period for the community-  
10 anchored project;
- 11 (14) the quality and number of new full-time jobs that will be  
12 created by the anchor institution, partner anchor institution or a  
13 partner business at the community-anchored project;
- 14 (15) the quality and number of existing full-time jobs that will be  
15 retained by the anchor institution, partner anchor institution, or a  
16 partner business in the State as a result of completing the  
17 community-anchored project, with the criteria specifying, in scoring  
18 the application, that the retention of an existing full-time job shall  
19 be given not more than one-third the weight of a new full-time job  
20 of a similar quality; and
- 21 (16) if the anchor institution has a board of directors, the extent  
22 to which that board of directors is diverse and representative of the  
23 community in which the community-anchored project is located.
- 24 d. Notwithstanding the provisions of subsection c. of this  
25 section, the authority may adopt, pursuant to the provisions of the  
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
27 seq.), rules and regulations adjusting competitive criteria required  
28 under the program when necessary to respond to the prevailing  
29 economic conditions in the State.
- 30 e. Prior to the award of a tax credit to an anchor institution or,  
31 if applicable, each partner anchor institution, to be converted into  
32 an authority investment in a community-anchored project, the  
33 authority shall confirm with the Department of Labor and  
34 Workforce Development, the Department of Environmental  
35 Protection, and the Department of the Treasury **【shall each report to**  
36 **the chief executive officer of the authority as to whether】** that the  
37 anchor institution and, if applicable, each partner anchor institution,  
38 along with any partner business identified in a program application,  
39 **【and each contractor and subcontractor performing work at the**  
40 **community-anchored project,】** is in substantial good standing with  
41 the respective department, or has entered into an agreement with the  
42 respective department that includes a practical corrective action  
43 plan for the anchor institution and, if applicable, each partner  
44 anchor institution and any partner business, and the anchor  
45 institution shall confirm that any contractors and subcontractors  
46 performing work at the community-anchored project: (1) are  
47 registered as required by "The Public Works Contractor  
48 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have

1 not been debarred by Department of Labor and Workforce  
2 Development from engaging in or bidding on Public Works  
3 Contracts in the State; and (3) possess a tax clearance certificate  
4 issued by the Division of Taxation in the Department of the  
5 Treasury. Provided that all parties are in **【substantial good**  
6 **standing, or have entered into such an agreement】** compliance with  
7 this subsection, the authority shall allocate tax credits to  
8 community-anchored projects according to the community-  
9 anchored project's score and until either the available tax credits are  
10 exhausted or all community-anchored projects obtaining the  
11 minimum score receive a tax credit, whichever occurs first. If  
12 insufficient funding exists to fully fund all eligible community-  
13 anchored projects, a community-anchored project may be offered  
14 partial funding.

15 f. Applications that do not receive the minimum score  
16 established by the authority for that award round shall not receive  
17 further consideration for a tax credit by the authority in that award  
18 round; however, an anchor institution or partner anchor institution  
19 may revise or complete a new application to be submitted in a  
20 subsequent award round.

21 g. If an anchor institution or partner anchor institution declines  
22 a tax credit offered by the authority, the authority shall offer the tax  
23 credit to the applicant with the application having the next highest  
24 score, and having obtained at least the minimum score in that award  
25 round.

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

27

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

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

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

47 (2) If, as a result of a default under the tax credit agreement, the  
48 authority rescinds a tax credit in the same calendar year in which

1 the authority approved the tax credit, then the authority may assign  
2 the tax credit to another applicant that attained the minimum score  
3 determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-  
4 317).

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

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

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

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

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

27 (5) identify the value of any monetary or financial benefit  
28 offered or provided by the anchor institution and, if applicable, each  
29 partner anchor institution to any partner business that works with  
30 the anchor institution and, if applicable, each partner anchor  
31 institution to complete and operate the community-anchored  
32 project;

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

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

43 (8) at a minimum, require an anchor institution and, if  
44 applicable, each partner anchor institution to provide oversight of  
45 the community-anchored project through ongoing reporting by a  
46 partner business to the anchor institution and, if applicable, each  
47 partner anchor institution, and subsequent ongoing reporting by the

1 anchor institution and, if applicable, each partner anchor institution  
2 to the authority;

3 (9) specify other measures through which the authority shall  
4 ensure oversight of outstanding tax credit investments, and, in the  
5 event that an anchor institution or partner anchor institution fails to  
6 meet its obligations under the tax credit agreement or any program  
7 requirement, establish the right of the authority to assume direct  
8 oversight of any or all projects for which the anchor institution or  
9 partner anchor institution has entered into investment agreements  
10 and require the anchor institution or partner anchor institution to  
11 pursue any remedies it may have against a partner business; and

12 (10) at a minimum, require that the anchor institution, each  
13 partner anchor institution, and any partner businesses, adopt  
14 specific nondiscrimination policies for the operation of a  
15 community-anchored project.

16 d. The tax credit agreement shall include a requirement that the  
17 chief executive officer of the authority receive annual reports from  
18 the anchor institution and, if applicable, each partner institution  
19 **[that are to include separate certifications by] and any partner**  
20 **business. As part of the authority's review of the annual reports**  
21 **required from each anchor institution and, if applicable, each**  
22 **partner institution, the authority shall confirm with** the Department  
23 of Environmental Protection, the Department of Labor and  
24 Workforce Development, and the Department of the Treasury  
25 **[demonstrating] that** the anchor institution and, if applicable, each  
26 partner institution **and** any partner business **], and each contractor**  
27 **and subcontractor performing work at the community-anchored**  
28 **project] is in substantial good standing with [that] the respective**  
29 **department, or [have] has entered into an agreement with [that]**  
30 **such** department that includes a **practical** corrective action plan **],**  
31 **and the] for the anchor institution and, if applicable, each partner**  
32 **anchor institution and any partner business, and the anchor**  
33 **institution shall confirm that any contractors and subcontractors**  
34 **performing work at the community-anchored project: (1) are**  
35 **registered as required by "The Public Works Contractor**  
36 **Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have**  
37 **not been debarred by Department of Labor and Workforce**  
38 **Development from engaging in or bidding on Public Works**  
39 **Contracts in the State; and (3) possess a tax clearance certificate**  
40 **issued by the Division of Taxation in the Department of the**  
41 **Treasury. The** tax credit agreement shall include a provision that  
42 the anchor institution and, if applicable, each partner institution  
43 shall forfeit the tax credit in any year in which an uncured default  
44 exists under the tax credit agreement **or the anchor institution and,**  
45 **if applicable, each partner institution is neither in substantial good**  
46 **standing with the Department of Environmental Protection, the**  
47 **Department of Labor and Workforce Development, or the**

1 Department of the Treasury nor has entered into a practical  
2 corrective action plan. The tax credit agreement shall, however,  
3 allow the authority to extend, in individual cases, the deadline for  
4 any annual reporting **【or certification】** requirement.

5 e. An anchor institution and, if applicable, each partner  
6 institution shall, as required at the discretion of the authority,  
7 submit to the authority satisfactory evidence of actual project costs,  
8 as certified by a certified public accountant, evidence of a  
9 temporary certificate of occupancy, or other event evidencing  
10 project completion. The anchor institution and, if applicable, each  
11 partner institution, or an authorized agent of the anchor institution  
12 or partner institution, shall certify under the penalty of perjury that  
13 the information provided pursuant to this subsection is true.

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

15

16 22. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to  
17 read as follows:

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

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

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

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

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

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

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

1 "Collaborative workspace" means coworking, accelerator,  
2 incubator, or other shared working environments that promote  
3 collaboration, interaction, socialization, and coordination among  
4 tenants through the clustering of multiple businesses or individuals.  
5 For this purpose, the collaborative workspace shall be the greater  
6 of: 2,500 of dedicated square feet or 10 percent of the total property  
7 on which the redevelopment project is situated. The collaborative  
8 workspace shall include a community manager, be focused on  
9 collaboration among the community members, and include  
10 regularly scheduled education events for the community members.  
11 The collaborative workspace shall also include a physical open  
12 space that supports the engagement of its community members.

13 "Commercial project" means a **【building】** redevelopment  
14 project, which is predominantly commercial and contains 100,000  
15 or more square feet of office and retail space, industrial space, or  
16 film studios, professional stages, television studios, recording  
17 studios, screening rooms, or other infrastructure for film  
18 production, for purchase or lease and may include a parking  
19 component.

20 "Developer" means a person who enters or proposes to enter into  
21 an incentive award agreement pursuant to the provisions of section  
22 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to  
23 a lender that completes a redevelopment project, operates a  
24 redevelopment project, or completes and operates a redevelopment  
25 project.

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

28 "Distressed municipality" means a municipality that is qualified  
29 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a  
30 municipality under the supervision of the Local Finance Board  
31 pursuant to the provisions of the "Local Government Supervision  
32 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality  
33 identified by the Director of the Division of Local Government  
34 Services in the Department of Community Affairs to be facing  
35 serious fiscal distress, a SDA municipality, or a municipality in  
36 which a major rail station is located.

37 "Economic development incentive" means a financial incentive,  
38 awarded by the authority, or agreed to between the authority and a  
39 business or person, for the purpose of stimulating economic  
40 development or redevelopment in New Jersey, including, but not  
41 limited to, a bond, grant, loan, loan guarantee, matching fund, tax  
42 credit, or other tax expenditure.

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



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

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

13       "Food desert community" means a physically contiguous area in  
14 the State in which residents have limited access to nutritious foods,  
15 such as fresh fruits and vegetables, **【through supermarkets and**  
16 **grocery stores】** and that has been designated as a food desert  
17 community pursuant to subsection b. of section 38 of P.L.2020,  
18 c.156 (C.34:1B-306).

19       "Government-restricted municipality" means a municipality in  
20 this State with a municipal revitalization index distress score of at  
21 least **【7】** 75, that met the criteria for designation as an urban aid  
22 municipality in the 2019 State fiscal year, and that, on the effective  
23 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial  
24 restrictions imposed pursuant to the “Municipal Stabilization and  
25 Recovery Act,” P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is  
26 restricted in its ability to levy property taxes on property in that  
27 municipality as a result of the State of New Jersey owning or  
28 controlling property representing at least 25 percent of the total land  
29 area of the municipality or as a result of the federal government of  
30 the United States owning or controlling at least 50 acres of the total  
31 land area of the municipality, which is dedicated as a national  
32 natural landmark.

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

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

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

5 "Incentive award agreement" means the contract executed  
6 between a developer and the authority pursuant to section 60 of  
7 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and  
8 conditions under which the developer may receive the incentive  
9 awards authorized pursuant to the provisions of sections 54 through  
10 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

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

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

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

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

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

43 "Moderate-income housing" means housing affordable according  
44 to federal Department of Housing and Urban Development or other  
45 recognized standards for home ownership and rental costs and  
46 occupied or reserved for occupancy by households with a gross  
47 household income equal to more than 50 percent, but less than 80  
48 percent, of the median gross household income for households of

1 the same size within the housing region in which the housing is  
2 located.

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

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

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

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

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

20 "Project cost" means the costs incurred in connection with a  
21 redevelopment project by a developer until the issuance of a  
22 permanent certificate of occupancy, or until such other time  
23 specified by the authority, for a specific investment or  
24 improvement, including the costs relating to lands, except the cost  
25 of acquiring such lands, buildings, improvements, real or personal  
26 property, or any interest therein, including leases discounted to  
27 present value, including lands under water, riparian rights, space  
28 rights, and air rights acquired, owned, developed or redeveloped,  
29 constructed, reconstructed, rehabilitated, or improved, any  
30 environmental remediation costs, plus costs not directly related to  
31 construction, including capitalized interest paid to third parties, of  
32 an amount not to exceed 20 percent of the total costs **【**, capitalized  
33 interest paid to third parties,**】** and the cost of infrastructure  
34 improvements, including ancillary infrastructure projects. The  
35 **【**cost of acquisition of land or**】** fees associated with the application  
36 or administration of a grant under sections 54 through 67 of  
37 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall not  
38 constitute a project cost.

39 "Project financing gap" means the part of the total project cost,  
40 including reasonable and appropriate return on investment, that  
41 remains to be financed after all other sources of capital have been  
42 accounted for, including, but not limited to developer contributed  
43 capital, which shall not be less than 20 percent of the total project  
44 cost, and investor or financial entity capital or loans for which the  
45 developer, after making all good faith efforts to raise additional  
46 capital, certifies that additional capital cannot be raised from other  
47 sources on a non-recourse basis; provided, however, that for a  
48 redevelopment project located in a government-restricted

1 municipality, the developer contributed capital shall not be less than  
2 10 percent of the total project cost. Developer contributed capital  
3 may consist of cash, deferred development fees, costs for project  
4 feasibility incurred within the 12 months prior to application,  
5 property value less any mortgages when the developer owns the  
6 project site, and any other investment by the developer in the  
7 project deemed acceptable by the authority, as provided by  
8 regulations promulgated by the authority. Property value shall be  
9 valued at the lesser of: (i) the purchase price, provided the property  
10 was purchased pursuant to an arm's length transaction within 12  
11 months of application; or (ii) the value as determined by a current  
12 appraisal.

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

17 "Qualified incentive tract" means (i) a population census tract  
18 having a poverty rate of 20 percent or more; or (ii) a census tract in  
19 which the median family income for the census tract does not  
20 exceed 80 percent of the greater of the Statewide median family  
21 income or the median family income of the metropolitan statistical  
22 area in which the census tract is situated.

23 "Quality childcare facility" is a child care center licensed by the  
24 Department of Children and Families or a registered family child  
25 care home with the Department of Human Services, operating  
26 continuously, which has not been subject to an enforcement action,  
27 and which has and maintains a [total] licensed capacity [of at least  
28 60] for children age [6] 13 years or younger who attend for less  
29 than 24 hours a day.

30 "Redevelopment project" means a specific construction project  
31 or improvement or phase of a project or improvement undertaken  
32 by a developer, owner or tenant, or both, and any ancillary  
33 infrastructure project. A redevelopment project may involve  
34 construction or improvement upon lands, buildings, improvements,  
35 or real and personal property, or any interest therein, including  
36 lands under water, riparian rights, space rights, and air rights,  
37 acquired, owned, developed or redeveloped, constructed,  
38 reconstructed, rehabilitated, or improved.

39 "Residential project" means a redevelopment project that is  
40 predominantly residential, intended for multi-family residency, and  
41 may include a parking component.

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

44 "SDA municipality" means a municipality in which an SDA  
45 district is situated.

46 "Technology startup company" means a for-profit business that  
47 has been in operation fewer than seven years at the time that it  
48 initially occupies or expands in a qualified business facility and is

1 developing or possesses a proprietary technology or business  
2 method of a high technology or life science-related product,  
3 process, or service, which proprietary technology or business  
4 method the business intends to move to commercialization. The  
5 business shall be deemed to have begun operation on the date that  
6 the business first hired at least one employee in a full-time position.

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

12 "Tourism destination project" means a non-gaming business  
13 facility that will be among the most visited privately owned or  
14 operated tourism or recreation sites in the State, and which has been  
15 determined by the authority to be in an area appropriate for  
16 development and in need of economic development incentive  
17 assistance, including a non-gaming business within an established  
18 Tourism District with a significant impact on the economic viability  
19 of that district.

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

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

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

37 **["Workforce housing" means housing that is affordable**  
38 **according to federal Department of Housing and Urban**  
39 **Development or other recognized standards for home ownership**  
40 **and rental costs, and occupied or reserved for occupancy by**  
41 **households with a gross household income of more than 80 percent,**  
42 **but less than 120 percent, of the median gross household income for**  
43 **households of the same size within the housing region in which the**  
44 **housing is located.]**

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

46

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

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

5       (1) without the incentive award, the redevelopment project is  
6 not economically feasible;

7       (2) a project financing gap exists, or the authority determines  
8 that the redevelopment project will generate a below market rate of  
9 return;

10       (3) the redevelopment project, except a film studio, professional  
11 stage, television studio, recording studio, screening room, or other  
12 infrastructure used for film production, is located in the incentive  
13 area;

14       (4) except for demolition and site remediation activities, the  
15 developer has not commenced any construction at the site of the  
16 redevelopment project prior to submitting an application, unless the  
17 authority determines that the redevelopment project would not be  
18 completed otherwise or, in the event the redevelopment project is to  
19 be undertaken in phases, the requested incentive award is limited to  
20 only phases for which construction has not yet commenced;

21       (5) the redevelopment project shall comply with minimum  
22 environmental and sustainability standards;

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

26       (7) during the eligibility period, each worker employed to  
27 perform construction work or building services work at the  
28 redevelopment project shall be paid not less than the prevailing  
29 wage rate for the worker's craft or trade, as determined by the  
30 Commissioner of Labor and Workforce Development pursuant to  
31 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379  
32 (C.34:11-56.58 et seq.). In the event a redevelopment project is  
33 undertaken by a tenant and the tenant has a leasehold of more than  
34 55 percent of space in the building owned or controlled by the  
35 developer, the requirement that each worker employed to perform  
36 building service work at the building be paid not less than the  
37 prevailing wage shall apply to the entire building;

38       (8) (a) the redevelopment project shall be completed, and the  
39 developer shall be issued a certificate of occupancy for the  
40 redevelopment project facilities by the applicable enforcing agency  
41 within four years of executing the incentive award agreement, or in  
42 the case of a redevelopment project with a project cost in excess of  
43 \$50,000,000, the incentive phase agreement corresponding to the  
44 redevelopment project; or

45       (b) in the discretion of the authority, a redevelopment project  
46 with a project cost in excess of \$50,000,000, and that is authorized  
47 to be completed in phases, may be allowed no more than six years  
48 from the date on which the incentive award agreement is executed

1 to be issued a certificate of occupancy by the applicable  
2 enforcement agency;

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

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

10 b. In addition to the requirements set forth in subsection a. of  
11 this section, for a commercial project to qualify for an incentive  
12 award the developer shall demonstrate that **【**:

13 (1) the incremental increase of State revenues realized from the  
14 commercial project upon its completion shall be in excess of the  
15 amount necessary to reimburse the developer for its project  
16 financing gap; and

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

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

25 (1) have a total project cost of at least \$17,500,000, if the  
26 project is located in a municipality with a population greater than  
27 200,000 according to the latest federal decennial census;

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

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

34 d. In addition to the requirements set forth in subsections a. and  
35 c. of this section, for a residential project consisting of newly-  
36 constructed residential units to qualify for an incentive award, the  
37 developer shall reserve at least 20 percent **【**, but not more than 50  
38 percent,**】** of the residential units constructed for occupancy by low-  
39 and moderate-income households with affordability controls as  
40 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-  
41 301 et al.) **【**and at least 5 percent of the residential units constructed  
42 as workforce housing, unless: the municipality in which the  
43 property is located has received substantive certification from the  
44 council and such a reservation is not required under the approved  
45 affordable housing plan; the municipality has been given a  
46 judgment of repose or a judgment of compliance by the court, and  
47 such a reservation is not required under the approved affordable

1 housing plan. If the municipality in which the property is located  
2 has received substantive certification from the council and such a  
3 reservation is not required under the approved affordable housing  
4 plan or the municipality has been given a judgment of repose or a  
5 judgment of compliance by the court, and such a reservation is not  
6 required under the approved affordable housing plan, then the  
7 developer shall reserve at least 10 percent, but not more than 50  
8 percent, of the residential units constructed for occupancy by low-  
9 and moderate-income households with affordability controls as  
10 required under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-  
11 301 et al.) and at least 15 percent of the residential units constructed  
12 as workforce housing】.

13 e. Prior to the board considering an application submitted by a  
14 developer, the authority shall confirm with the Department of Labor  
15 and Workforce Development, the Department of Environmental  
16 Protection, and the Department of the Treasury 【shall each report to  
17 the chief executive officer of the authority】 whether the developer  
18 is in substantial good standing with the respective department, or  
19 has entered into an agreement with the respective department that  
20 includes a practical corrective action plan for the developer. The  
21 developer shall certify that any contractors or subcontractors that  
22 will perform work at the redevelopment project: (1) are registered  
23 as required by "The Public Works Contractor Registration Act,"  
24 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred  
25 by Department of Labor and Workforce Development from  
26 engaging in or bidding on Public Works Contracts in the State; and  
27 (3) possess a tax clearance certificate issued by the Division of  
28 Taxation in the Department of the Treasury. The authority may also  
29 contract with an independent third party to perform a background  
30 check on the developer.

31 (cf: P.L.2020, c.156, s.57)

32

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

35 58. a. Prior to March 1, 2027, 【a developer that meets the  
36 eligibility criteria in】 for redevelopment projects eligible pursuant  
37 to section 57 of P.L.2020, c.156 (C.34:1B-325) 【and is】 for which a  
38 developer is seeking an incentive award for 【a】 the redevelopment  
39 project, the developer shall submit an application to the authority  
40 and, in the case of a residential project, shall submit an application  
41 to the authority and the agency, in a form and manner prescribed in  
42 regulations adopted by the authority, in consultation with the  
43 agency, pursuant to the provisions of the "Administrative Procedure  
44 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall  
45 accept applications for incentive awards during the grant periods  
46 established pursuant to section 59 of P.L.2020, c.156 (C.34:1B-  
47 327).



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

1 restricted municipality shall yield a net positive benefit to the State  
2 that exceeds the requested tax credit amount, but the net benefit  
3 requirement set by the authority for such redevelopment projects  
4 may be up to 35 percentage points lower than the net benefit  
5 requirement set by the authority for all other eligible redevelopment  
6 projects.

7 e. If at any time during the eligibility period the authority  
8 determines that the developer made a material misrepresentation on  
9 the developer's application, the developer shall forfeit the incentive  
10 award.

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

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

17

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

20 59. a. Prior to March 1, 2027, for redevelopment projects  
21 eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325),  
22 the authority shall award incentive awards based on the order in  
23 which complete, qualifying applications were received by the  
24 authority. If a developer intends to apply to both the authority and  
25 the agency for subsidies, the developer shall notify the agency  
26 simultaneously with any application made to the authority. The  
27 authority shall transmit its grant determination for such residential  
28 projects to the agency along with any information developed by the  
29 authority and confirmation of the authority's intent to provide an  
30 incentive award or award to the project. Approval of an application  
31 by the agency shall be the final determination required for an  
32 incentive award for a residential project under this section.

33 b. Prior to allocating an incentive award to a redevelopment  
34 project, the authority shall confirm with the Department of Labor  
35 and Workforce Development, the Department of Environmental  
36 Protection, and the Department of the Treasury [shall each report to  
37 the chief executive officer of the authority whether the developer  
38 and each contractor and subcontractor performing work at the  
39 redevelopment project] that the developer is in substantial good  
40 standing with the respective department, or a developer not in  
41 substantial good standing with each department has entered into an  
42 agreement with the respective department that includes a practical  
43 corrective action plan for the developer, and that the developer shall  
44 confirm that each contractor or subcontractor performing work at  
45 the redevelopment project: (1) is registered as required by “The  
46 Public Works Contractor Registration Act,” P.L.1999, c.238  
47 (C.34:11-56.48 et seq.); (2) has not been debarred by Department of  
48 Labor and Workforce Development from engaging in or bidding on

1 Public Works Contracts in the State; and (3) possesses a tax  
2 clearance certificate issued by the Division of Taxation in the  
3 Department of the Treasury. The authority may also contract with  
4 an independent third party to perform a background check on the  
5 developer. Provided that the developer, and all contractors and  
6 subcontractors, are in [substantial good standing, or have entered  
7 into such agreements] compliance with this subsection, the  
8 authority shall allocate incentive awards to redevelopment projects  
9 according to the redevelopment project's score and until either the  
10 available incentive awards are exhausted or all redevelopment  
11 projects obtaining the minimum score receive an incentive award,  
12 whichever occurs first. If insufficient funding exists to fully fund  
13 all eligible projects, a project may be offered partial funding.  
14 (cf: P.L.2020, c.156, s.59)

15  
16 26. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to  
17 read as follows:

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

24 (2) For a phased project, the incentive phase agreement shall set  
25 forth, for each phase of the project and for the total project, the  
26 capital investment requirements and the time periods in which each  
27 phase of the project shall be commenced and completed. The  
28 awarding of tax credits shall be conditioned on the developer's  
29 compliance with the requirements of the agreement. A  
30 redevelopment project may be completed in phases in accordance  
31 with rules adopted by the authority if the redevelopment project has  
32 a total project cost in excess of \$50,000,000.

33 b. An incentive award agreement shall specify the amount of  
34 the incentive award the authority shall award to the developer and  
35 the duration of the eligibility period, which shall not exceed 15  
36 years for a commercial or mixed-use project and shall not exceed 10  
37 years for a residential project. The incentive award agreement shall  
38 provide an estimated date of completion and include a requirement  
39 for periodic progress reports, including the submittal of executed  
40 financing commitments and documents that evidence site control.  
41 If the authority does not receive periodic progress reports, or if the  
42 progress reports demonstrate unsatisfactory progress, then the  
43 authority may rescind the incentive award. If the authority rescinds  
44 an incentive award in the same calendar year in which the authority  
45 approved the incentive award, then the authority may assign the  
46 incentive award to another applicant. The incentive award  
47 agreement may also provide for a verification of the financing gap  
48 at the time the developer provides executed financing commitments

1 to the authority and a verification of the developer's projected cash  
2 flow at the time of certification that the project is completed.

3 c. To ensure the protection of taxpayer money, if the authority  
4 determines at project certification that the actual capital financing  
5 approach utilized by the project has resulted in a financing gap that  
6 is smaller than the financing gap determined at board approval, the  
7 authority shall reduce the amount of the tax credit or accept  
8 payment from the developer on a pro rata basis. If there is no  
9 project financing gap due to the actual capital financing approach  
10 utilized by the project, then the developer shall forfeit the incentive  
11 award. **At** the end of the **third**  
12 seventh year of the eligibility period **whereupon** , the authority  
13 shall evaluate the developer's **cash flow** rate of return on  
14 investment and compare that **cash flow** rate of return on  
15 investment to the **projected cash flow** reasonable and appropriate  
16 rate of return at the time of board approval. **For a commercial**  
17 **project, if** If the actual cash flow rate of return on investment  
18 exceeds the projected cash flow reasonable and appropriate rate  
19 of return on investment at the time of board approval by more than  
20 15 percent, the authority shall require the developer to pay up to  
21 **15** 20 percent of the amount **of the excess, which payment shall**  
22 **be deposited in the State General Fund. To the extent applicable, in**  
23 **the case of a residential project, the developer's return on**  
24 **investment shall be subject to the provisions of section 7 of**  
25 **P.L.1983, c.530 (C.55:14K-7)** in excess of the reasonable and  
26 appropriate rate of return on investment. The authority shall require  
27 an escrow account to be held by the authority until the end of the  
28 eligibility period. Following the final year of the eligibility period,  
29 the authority shall determine if the developer's rate of return  
30 exceeded the reasonable and appropriate rate of return determined  
31 at board approval. If the final rate of return does not exceed the  
32 reasonable and appropriate rate of return determined at board  
33 approval, the authority shall release to the developer the escrowed  
34 funds. If the project final rate of return exceeds the reasonable and  
35 appropriate rate of return determined at board approval, the  
36 authority shall require the developer to pay up to 20 percent of the  
37 amount of the excess, which shall include the funds held in escrow,  
38 and such funds shall be deposited in the State General Fund,

39 d. The incentive award agreement shall include a requirement  
40 that **the chief executive officer of the authority receive annual**  
41 **reports from** the authority confirm with the Department of  
42 Environmental Protection, the Department of Labor and Workforce  
43 Development, and the Department of the Treasury **demonstrating**  
44 that the developer **and each contractor and subcontractor**  
45 **performing work at the redevelopment project** is in substantial  
46 good standing with the respective department, or the developer has

1 entered into an agreement with the respective department that  
2 includes a practical corrective action for the developer, and the  
3 developer shall confirm that each contractor or subcontractor  
4 performing work at the redevelopment project: (1) is registered as  
5 required by "The Public Works Contractor Registration Act,"  
6 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred  
7 by Department of Labor and Workforce Development from  
8 engaging in or bidding on Public Works Contracts in the State; and  
9 (3) possesses a tax clearance certificate issued by the Division of  
10 Taxation in the Department of the Treasury. The incentive award  
11 agreement shall also include a provision that the developer shall  
12 forfeit the incentive award in any year in which **【any such report is**  
13 **not received】** the developer is neither in substantial good standing  
14 with each department nor has entered into a practical corrective  
15 action. The incentive award agreement shall also require a  
16 developer to engage in on-site consultations with the Division of  
17 Workplace Safety and Health in the Department of Health.

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

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

41 (3) As used in this subsection:

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

45 "Labor harmony agreement" means an agreement between a  
46 business that serves as the owner or operator of a retail  
47 establishment or distribution center and one or more labor  
48 organizations, which requires, for the duration of the agreement:

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

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

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

45 (3) At the time the developer submits the annual report required  
46 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the  
47 authority, the developer shall certify, under the penalty of perjury,  
48 that it is in compliance with the terms of the community benefits

1 agreement. If the developer fails to provide the certification  
2 required pursuant to this paragraph or the authority determines that  
3 the developer is not in compliance with the terms of the community  
4 benefits agreement based on the reports submitted by the  
5 community advisory committee pursuant to paragraph (2) of this  
6 subsection, then the authority may rescind an award or recapture all  
7 or part of any tax credits awarded.

8 (4) A developer shall not be required to enter into a community  
9 benefits agreement pursuant to this subsection if the developer  
10 submits to the authority a copy of either the developer's approval  
11 letter from the authority or a redevelopment agreement [that]  
12 applicable to the qualified business facility, provided that the  
13 approval letter or redevelopment agreement is certified by the  
14 municipality in which the redevelopment project is located, and  
15 includes provisions that meet or exceed the standards required for a  
16 community benefits agreement in this subsection, as determined by  
17 the chief executive officer pursuant to rules adopted by the  
18 authority.

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

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

35 (cf: P.L.2020, c.156, s.60)

36

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

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

45 (1) 60 percent of the total project cost for the new construction  
46 of a residential project that receives a four-percent allocation from  
47 the federal Low Income Housing Tax Credit Program administered  
48 by the agency;

1       (2) 50 percent of the total project cost for a commercial project  
2 that is located in a government-restricted municipality; or

3       (3) 45 percent of the total project cost **【of the】** for any other  
4 redevelopment project **【,** except for a commercial project that is  
5 located in a government-restricted municipality, in which case the  
6 total tax credit allowed shall not exceed 50 percent of the total  
7 project cost of the commercial project **】**.

8       b. The value of all tax credits approved by the authority under  
9 the program for a redevelopment project phase shall not exceed  
10 **【\$50,000,000】** :

11       (1) \$60,000,000 per redevelopment project 【if】 or phase for a  
12 residential project that is allowed a tax credit under paragraph (1) of  
13 subsection a. of this section, or a redevelopment project or phase  
14 that is located in a qualified incentive tract, government-restricted  
15 municipality, or municipality with a Municipal Revitalization Index  
16 distress score of at least 50 【, or \$32,000,000】 ; and

17       (2) \$42,000,000 for any other redevelopment project or phase.  
18 (cf: P.L.2020, c.156, s.61)

19  
20       28. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to  
21 read as follows:

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

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



1 proceeds derived from the assignment of tax credits to complete the  
2 residential project, except a developer of a residential project  
3 consisting of newly-constructed residential units that has received  
4 federal low income housing tax credits under 26 U.S.C.  
5 **[s.42(b)(2)(B)(i)]** s.42(b)(1)(B)(i) may assign a tax credit transfer  
6 certificate for consideration of no less than **[75]** 65 percent subject  
7 to the submission of a plan to the authority and the New Jersey  
8 Housing and Mortgage Finance Agency to use the proceeds derived  
9 from the assignment of tax credits to complete the residential  
10 project. The tax credit transfer certificate issued to a developer by  
11 the director shall be subject to any limitations and conditions  
12 imposed on the application of State tax credits pursuant to sections  
13 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-  
14 335) and any other terms and conditions that the director may  
15 prescribe.

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

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

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

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

27

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

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

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

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

6 (b) for a residential project containing less than 1,000 new  
7 residential units, the construction of 250 or more new residential  
8 units if the project is located in a government-restricted  
9 municipality, 350 or more residential units if the project is located  
10 in an enhanced area, or 600 or more residential units for all other  
11 mixed-use projects;

12 (c) for a residential project containing less than 1,000 new  
13 residential units, the construction of 100,000 square feet or more of  
14 retail or commercial space, with the majority being commercial; and

15 (d) for a residential project, 20 percent of **【which】** the new  
16 residential units shall be constructed for occupancy by low- and  
17 moderate-income households with affordability controls as required  
18 under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et  
19 al.) **【and at least 5 percent of the residential units constructed as**  
20 workforce housing, unless: the municipality in which the property is  
21 located has received substantive certification from the council and  
22 such a reservation is not required under the approved affordable  
23 housing plan; the municipality has been given a judgment of repose  
24 or a judgment of compliance by the court, and such a reservation is  
25 not required under the approved affordable housing plan. If the  
26 municipality in which the property is located has received  
27 substantive certification from the council and such a reservation is  
28 not required under the approved affordable housing plan or the  
29 municipality has been given a judgment of repose or a judgment of  
30 compliance by the court, and such a reservation is not required  
31 under the approved affordable housing plan, then the developer  
32 shall reserve at least 10 percent, but not more than 50 percent, of  
33 the residential units constructed for occupancy by low- and  
34 moderate-income households with affordability controls as required  
35 under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et  
36 al.) and at least 15 percent of the residential units constructed as  
37 workforce housing**】**; and

38 (3) the extent to which the proposed project would leverage the  
39 competitive economic development advantages of the State's mass  
40 transit assets, higher education assets, and other economic  
41 development assets in attracting or retaining both employers and  
42 skilled workers generally or in targeted industries.

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

46 b. (1) The authority may award **【an】** incentive **【award to no**  
47 **more than ten**】** awards to transformative projects in accordance**

1 with the provisions of sections ~~59~~ 55 through 67 of P.L.2020,  
2 c.156 (~~C.34:1B-327~~ C.34:1B-323 through C.34:1B-335) ~~;~~  
3 provided, however, a transformative project shall not be subject to  
4 the competitive application procedure set forth in section 59 of  
5 P.L.2020, c.156 (C.34:1B-327)].

6 (2) (a) For transformative projects completed in phases, the  
7 developer shall enter into a transformative phase agreement with the  
8 authority.

9 (b) As used in this subsection, “transformative phase  
10 agreement” shall mean a sub-agreement of the incentive award  
11 agreement that governs the timing, capital investment, and other  
12 applicable details of the respective phase of a phased project.

13 (3) Notwithstanding the provisions of section 57 of P.L.2020,  
14 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156  
15 (C.34:1B-269 et al.), to the contrary, for transformative projects  
16 completed in phases, the transformative project shall be completed,  
17 and the developer shall be issued certificates of occupancy for all  
18 phases of the transformative project facilities by the applicable  
19 enforcing agency, within eight years of executing either the  
20 incentive award agreement or the first transformative phase  
21 agreement corresponding to the transformative project.

22 (4) Notwithstanding the provisions of sections 55 and 60 of  
23 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other  
24 section of P.L.2020, c.156 (C.34:1B-269 et al.), to the contrary,  
25 each phase of a transformative project completed in phases shall  
26 have a separate eligibility period. After completing each phase, the  
27 developer shall submit a certification that the phase is completed.  
28 If the authority approves the certification, the tax credit allowed to  
29 the developer shall be increased by the tax credit amount  
30 corresponding to that phase. Notwithstanding the different  
31 eligibility periods for each phase, all conditions and requirements  
32 applicable during an eligibility period pursuant to sections 55  
33 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335)  
34 shall apply to the entire transformative project until the end of the  
35 eligibility period for the last phase.

36 (5) Notwithstanding the provisions of section 60 of P.L.2020,  
37 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156  
38 (C.34:1B-269 et al.), to the contrary, for a transformative project  
39 completed in phases, a review of the project financing gap shall be  
40 performed at the certification of completion of each phase, and the  
41 authority shall re-evaluate the developer’s rate of return in the  
42 seventh year and at the end of the eligibility period for the last  
43 phase, provided that the authority may also re-evaluate the  
44 developer’s rate of return during the fifth year of any earlier phase.

45 (6) A transformative project receiving an incentive award  
46 pursuant to this section, other than a project that includes 250,000  
47 or more square feet of film studios, professional stages, television  
48 studios, recording studios, screening rooms or other infrastructure

1 for film production, shall be located in an incentive area, a  
2 distressed municipality, a government-restricted municipality, or an  
3 **【urban transit hub municipality】** an enhanced area. A  
4 transformative project receiving an incentive award pursuant to this  
5 section that includes 250,000 or more square feet of film studios,  
6 professional stages, television studios, recording studios, screening  
7 rooms or other infrastructure for film production may be located  
8 anywhere in the State. No more than two transformative projects  
9 receiving an incentive award pursuant to this section shall be  
10 located in the same municipality. The authority shall not consider  
11 an application for a transformative project unless the applicant  
12 submits with its application a letter evidencing support for the  
13 transformative project from the governing body of the municipality  
14 in which the transformative project is located.

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

44 d. In determining net benefits for any business or person  
45 considering locating in a transformative project and applying to  
46 receive from the authority any other economic development  
47 incentive subsequent to the award of transformative project tax  
48 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the

1 authority shall not credit the business or person with any benefit  
2 that was previously credited to the transformative project pursuant  
3 to section 65 of P.L.2020, c.156 (C.34:1B-333).

4 e. The authority shall administer the credits awarded pursuant  
5 to this section in accordance with the provisions of sections 62 and  
6 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

7 f. Prior to allocating an incentive award to a developer, the  
8 authority shall confirm with the Department of Labor and  
9 Workforce Development, the Department of Environmental  
10 Protection, and the Department of the Treasury **【**shall each report to  
11 the chief executive officer of the authority whether the developer  
12 and each contractor and subcontractor performing work at the  
13 transformative project**】** that the developer is in substantial good  
14 standing with the respective department, or the developer has  
15 entered into an agreement with the respective department that  
16 includes a practical corrective action plan, and the developer shall  
17 certify that each contractor or subcontractor performing work at the  
18 transformative project: (1) is registered as required by “The Public  
19 Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-  
20 56.48 et seq.); (2) has not been debarred by Department of Labor  
21 and Workforce Development from engaging in or bidding on Public  
22 Works Contracts in the State; and (3) possesses a tax clearance  
23 certificate issued by the Division of Taxation in the Department of  
24 the Treasury. The authority may also contract with an independent  
25 third party to perform a background check on the **【applicant】**  
26 developer.

27 g. Notwithstanding the limitation on incentive awards set forth  
28 in subsection b. of section 61 and section 98 of P.L.2020, c.156  
29 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may  
30 allow a developer of a transformative project a tax credit, as  
31 reimbursement for certain project financing gap costs, in an amount  
32 not to exceed **【30】** 40 percent of the total project cost, the total  
33 value of the project financing gap, or **【\$250,000,000】** \$350,000,000  
34 whichever is less; provided, however, that for a transformative  
35 project that is developed in phases, the \$350,000,000 limitation on  
36 incentive awards set forth in this subsection shall apply to the total  
37 aggregate award for all phases of the transformative project.

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

39  
40 30. Section 69 of P.L.2020, c.156 (C.34:1B-337) is amended to  
41 read as follows:

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

44 "Affiliate" means an entity that directly or indirectly controls, is  
45 under common control with, or is controlled by the business.  
46 Control exists in all cases in which the entity is a member of a  
47 controlled group of corporations, as defined pursuant to section

1 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or  
2 the entity is an organization in a group of organizations under  
3 common control, as defined pursuant to subsection (c) of section  
4 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A  
5 taxpayer may establish by clear and convincing evidence, as  
6 determined by the Director of the Division of Taxation in the  
7 Department of the Treasury, that control exists in situations  
8 involving lesser percentages of ownership than required by sections  
9 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C.  
10 ss.1563 and 414).

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

13 "Aviation district" means all areas within the boundaries of the  
14 Atlantic City International Airport, established pursuant to section  
15 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation  
16 Administration William J. Hughes Technical Center and the area  
17 within a one-mile radius of the outermost boundary of the Atlantic  
18 City International Airport and the Federal Aviation Administration  
19 William J. Hughes Technical Center.

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

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

33 "Business" means an applicant proposing to own or lease  
34 premises in a qualified business facility that is: a corporation that is  
35 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162  
36 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and  
37 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or  
38 N.J.S.17B:23-5, or is a partnership, S corporation, limited liability  
39 company, or non-profit corporation. A business shall include an  
40 affiliate of the business if that business applies for a credit based  
41 upon any capital investment made by or full-time employees of an  
42 affiliate. If the business or tenant is a cooperative or part of a  
43 cooperative, then the cooperative may qualify for credits by  
44 counting the full-time employees and capital investments of its  
45 member organizations, and the cooperative may distribute credits to  
46 its member organizations. If the business or tenant is a cooperative  
47 that leases to its member organizations, the lease shall be treated as  
48 a lease to an affiliate or affiliates. [A business shall include an

1 affiliate of the business if that business applies for a credit based  
2 upon any capital investment made by full-time employees of an  
3 affiliate.】

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

19 "College or university" means a county college, an independent  
20 institution of higher education, a public research university, or a  
21 State college.

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

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

29 "Director" means the Director of the Division of Taxation in the  
30 Department of the Treasury.

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

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

44 "Eligibility period" means the period in which an eligible  
45 business may claim a tax credit under the program for a given  
46 project phase, beginning with the tax period in which the authority  
47 accepts certification of the eligible business that it has met the  
48 capital investment and employment requirements of the program for

1 the respective project phase, and extending thereafter for a term of  
2 not more than seven years, with the term to be determined at the  
3 discretion of the applicant, provided that the term of the eligibility  
4 period may consist of nonconsecutive tax years if the applicant  
5 elects at any time after the end of the first tax period of the  
6 eligibility period to defer the continuation of the eligibility period to  
7 a subsequent tax period. The authority may extend the eligibility  
8 period one additional tax period to accommodate a prorated  
9 payment pursuant to paragraph (2) of subsection a. of section 77 of  
10 P.L.2020, c.156 (C.34:1B-345).

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

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

18 "Employment and Investment Corridor" means the portions of  
19 the qualified incentive area that are not located within a distressed  
20 municipality and which:

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

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

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

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

41 "Enhanced area" means (1) a municipality that contains an urban  
42 transit hub as defined in section 2 of P.L.2007, c.346 (C.34:1B-  
43 208), (2) the five municipalities with the highest poverty rates  
44 according to the 2017 Municipal Revitalization Index, and (3) the  
45 three municipalities with the highest percentage of SNAP recipients  
46 according to the 2017 Municipal Revitalization Index.

47 "Full-time employee" means a person:



- 1 a. who is employed by a business for consideration for at least  
2 35 hours a week, or who renders any other standard of service  
3 generally accepted by custom or practice as full-time employment,  
4 and whose wages are subject to withholding as provided in the  
5 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;
- 6 b. who is employed by a professional employer organization  
7 pursuant to an employee leasing agreement between the business  
8 and the professional employer organization, pursuant to P.L.2001,  
9 c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who  
10 renders any other standard of service generally accepted by custom  
11 or practice as full-time employment, and whose wages are subject  
12 to withholding as provided in the "New Jersey Gross Income Tax  
13 Act," N.J.S.54A:1-1 et seq.; or
- 14 c. who is a resident of another State, but whose income is not  
15 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
16 et seq., due to a reciprocity agreement with the other state, or who  
17 is a partner of a business who works for the partnership for at least  
18 35 hours a week, or who renders any other standard of service  
19 generally accepted by custom or practice as full-time employment,  
20 and whose distributive share of income, gain, loss, or deduction, or  
21 whose guaranteed payments, or any combination thereof, is subject  
22 to the payment of estimated taxes, as provided in the "New Jersey  
23 Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to a reciprocity  
24 agreement with the other state.

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

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

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

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 or a contract worker whose income is subject to withholding as  
48 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

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

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

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

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

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

46 "Incentive area" means:

- 47 a. an aviation district;  
48 b. a port district;

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

1 planning areas; (3) any area determined to be in need of  
2 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79  
3 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation  
4 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any  
5 area on which a structure exists or previously existed including any  
6 desired expansion of the footprint of the existing or previously  
7 existing structure provided the expansion otherwise complies with  
8 all applicable federal, State, county, and local permits and  
9 approvals; or (5) any area on which an existing tourism destination  
10 project is located; or

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

12 **["Incentive phase agreement" means a sub-agreement of the**  
13 **incentive agreement that governs the timing, capital investment,**  
14 **employment levels, and other applicable details of the respective**  
15 **phase.]**

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

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

40 "Industrial use" means assembling, processing, manufacturing, or  
41 any combination thereof, of finished or partially finished products  
42 from materials or fabricated parts; the breaking or demolishing of  
43 finished or partially finished products; or the production of oil or  
44 gas or the generation or transformation of electricity. "Industrial  
45 use" includes farming purposes as that term is defined under 26  
46 U.S.C. s.6420(c)(3)(A), undertaken in an industrial space.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 "Qualified business facility" means any building, complex of  
46 buildings, or structural components of buildings, and all machinery  
47 and equipment located therein, used in connection with the  
48 operation of a business that is not engaged in final point of sale

1 retail business at that location, unless the building, complex of  
2 buildings or structural components of buildings, and all machinery  
3 and equipment therein, are used in connection with the operation of  
4 a tourism destination project located in the Atlantic City Tourism  
5 District as established pursuant to section 5 of P.L.2011, c.18  
6 (C.5:12-219).

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

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

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

24 "Quality child care facility" is a child care center licensed by the  
25 Department of Children and Families or a registered family child  
26 care home with the Department of Human Services, operating  
27 continuously, which has not been subject to an enforcement action,  
28 and which has and maintains a **【total】** licensed capacity **【of at least**  
29 **60】** for children age 【6】 13 years or younger who attend for less  
30 than 24 hours a day.

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

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

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

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

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

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

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

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

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

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

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



1 "Transit Village" means a municipality that has been designated  
2 as a transit village by the Commissioner of Transportation and the  
3 Transit Village Task Force.  
4 (cf: P.L.2020, c.156, s.69)  
5

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

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

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

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

20 (3) the qualified business facility is located in a qualified  
21 incentive area;

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

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

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

45 (b) an award of tax credits to a business for a qualified business  
46 facility located in a government-restricted municipality, or for a  
47 mega project, shall yield a net positive benefit to the State, based on  
48 the benefits generated during the period of time from approval

1 through the end of the commitment period, that equals at least 200  
2 percent of the requested tax credit amount;

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

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

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

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

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

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

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

7 (i) the work performed under the contract is performed at a  
8 qualified business facility owned by a landlord that is not a business  
9 receiving authority assistance;

10 (ii) the landlord is a party to the construction contract, building  
11 services contract, or both; and

12 (iii) the qualified business facility constitutes a lease of less than  
13 35 percent of the **qualified business** entire facility at the time of  
14 contract and under any agreement to subsequently lease the  
15 qualified business facility.

16 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-  
17 5.1), nothing in this paragraph shall be construed as requiring the  
18 payment of prevailing wage for construction commencing more  
19 than two years after **a business has executed with the authority a**  
20 **commitment letter regarding authority financial assistance and the**  
21 **first payment or other provision of the assistance is received** the  
22 authority has issued the first certificate of compliance pursuant to  
23 paragraph (2) of subsection a. of section 77 of P.L.2020, c.156  
24 (C.34:1B-345).

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

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

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

36 (c) for the rehabilitation, improvement, fit-out, or retrofit of  
37 existing portion of the premises that does not qualify pursuant to  
38 subparagraph (a) or (b) of this paragraph, a minimum investment of  
39 \$40 per square foot of gross leasable area;

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

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

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

6 (3) Notwithstanding the provisions of paragraphs (1) and (2) of  
7 this subsection, the authority may adopt, pursuant to the provisions  
8 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
9 1 et seq.), rules and regulations adjusting the minimum capital  
10 investment amounts required under the program when necessary to  
11 respond to the prevailing economic conditions in the State.

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

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

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

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

20 (d) for a business eligible for new full-time jobs under  
21 subparagraphs (b) or (c) of this paragraph, the business shall also be  
22 eligible for retained full-time jobs in addition to the new full-time  
23 jobs if the business will retain 150 retained full-time jobs when  
24 locating in a government-restricted municipality, 250 retained full-  
25 time jobs when locating in a qualified incentive tract or enhanced  
26 area municipality, or 500 retained full-time jobs when locating  
27 anywhere else in the State;

28 (e) for a business **【located】** not eligible under subparagraphs  
29 (b), (c), or (d) of this paragraph and locating in a qualified incentive  
30 tract, enhanced area, or government-restricted municipality that will  
31 retain 500 or more retained full-time jobs, a minimum of the  
32 business's retained full-time jobs at the time of application **【and**  
33 **new construction or rehabilitation, improvement, fit-out, or retrofit**  
34 **of an existing portion of the premises equal in size to the space**  
35 **occupied by the business's retained full-time jobs at the time of**  
36 **application】;**

37 **【(e)】** (f) for a business not eligible under subparagraphs (b), (c),  
38 (d), or (e) of this paragraph and located in the State that will retain  
39 1,000 or more retained full-time jobs, a minimum of the business's  
40 retained full-time jobs at the time of application **【and new**  
41 **construction or rehabilitation, improvement, fit-out, or retrofit of an**  
42 **existing portion of the premises equal in size to the space occupied**  
43 **by the business's retained full-time jobs at the time of application】.**

44 (2) Notwithstanding the provisions of paragraph (1) of this  
45 subsection, the authority may adopt, pursuant to the provisions of  
46 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
47 seq.), rules and regulations adjusting the minimum number of new

1 or retained full-time jobs required under the program when  
2 necessary to respond to the prevailing economic conditions in the  
3 State.

4 d. A business **【shall provide and adhere】** that provides and  
5 adheres to a plan that demonstrates that the qualified business  
6 facility is capable of accommodating more than half of the  
7 business's new **【or】** and retained full-time employees as approved  
8 and **【shall certify】** that certifies, under the penalty of perjury, that  
9 not less than 80 percent of the withholdings of new **【or】** and  
10 retained full-time jobs are subject to the "New Jersey Gross Income  
11 Tax Act," N.J.S.54A:1-1 et seq. shall be eligible. The requirements  
12 set forth in this subsection may be modified by the authority to  
13 respond to an emergency, disaster, or other factors that result in  
14 employees of an eligible business having to work from a location  
15 other than the qualified business facility.

16 e. The **【owner】** chief executive officer of the business, or an  
17 **【authorized agent of the owner】** equivalent officer, shall certify that  
18 all factual representations made by the business to the authority  
19 pursuant to subsection a. of this section are true under the penalty of  
20 perjury.

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

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

27

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

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

37 b. (1) Before the board may consider an eligible business's  
38 application for tax credits, the authority shall confirm with the  
39 Department of Labor and Workforce Development, the Department  
40 of Environmental Protection, and the Department of the Treasury  
41 **【shall each report to the chief executive officer of the authority】**  
42 whether the eligible business is in **【compliance】** substantial good  
43 standing with the respective department, or, if necessary, has  
44 entered into an agreement with the respective department that  
45 includes a practical corrective action plan for the eligible business.  
46 The business entity shall certify that contractors or subcontractors  
47 that will perform work at the qualified business facility: (1) are

1 registered as required by “The Public Works Contractor  
2 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have  
3 not been debarred by Department of Labor and Workforce  
4 Development from engaging in or bidding on Public Works  
5 Contracts in the State; and (3) possess a tax clearance certificate  
6 issued by the Division of Taxation in the Department of the  
7 Treasury. The authority may also contract with an independent  
8 third party to perform a background check on the eligible business.  
9 Provided that the eligible business is in substantial good standing,  
10 or has entered into such an agreement, and each contractor and  
11 subcontractor is in compliance with this paragraph, before the board  
12 may approve an eligible business's application for tax credits, the  
13 eligible business shall execute a non-binding letter of intent with  
14 the chief executive officer of the authority, specifying the amount  
15 and terms and conditions of tax credits that the authority is prepared  
16 to propose for board approval and that are intended to be a material  
17 factor in the decision by the eligible business to create or retain the  
18 proposed number of new and retained full-time jobs, and in which  
19 the eligible business certifies such tax credits are a material factor  
20 in its decision.

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

1 or an **【authorized agent of the owner】** equivalent officer, shall  
2 certify that all factual representations made by the business to the  
3 authority pursuant to this paragraph are true under the penalty of  
4 perjury.

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

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

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

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

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

27

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

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

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

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

- 1 (2) the eligibility period of the tax credits or, for a phased  
2 project, the eligibility period of the tax credits for each phase;
- 3 (3) personnel information that will enable the authority to  
4 administer the program;
- 5 (4) a requirement that the eligible business maintain the project  
6 at a location in New Jersey for the commitment period, with at least  
7 the minimum number of full-time jobs as required by this program,  
8 and a provision to permit the authority to recapture all or part of any  
9 tax credits awarded, at its discretion, if the eligible business does  
10 not remain in compliance with this provision for the required term  
11 or significantly reduces the number of full-time employees, or the  
12 salaries thereof, to which the eligible business certified at the  
13 commencement of the eligibility period;
- 14 (5) a method for the eligible business to certify that it has met  
15 the capital investment and employment requirements of the program  
16 set forth in subsections b. and c. of section 71 of P.L.2020, c.156  
17 (C.34:1B-339) and to report annually to the authority the number of  
18 new and retained full-time employees, and the salaries thereof, for  
19 which the tax credits are to be allowed;
- 20 (6) representations that the eligible business is in substantial  
21 good standing with the Department of Environmental Protection,  
22 the Department of Labor and Workforce Development, and the  
23 Department of the Treasury or **【meets the agreement requirements**  
24 **described in paragraph (1) of subsection b. of section 71 of**  
25 **P.L.2020, c.156 (C.34:1B-339)】** has entered into an agreement with  
26 the departments that includes a practical corrective action plan, and  
27 the project complies with all applicable laws, and specifically, that  
28 the project does not violate any environmental law;
- 29 (7) a provision permitting an audit of the payroll records of the  
30 business from time to time, as the authority deems necessary;
- 31 (8) a provision that the chief executive officer of the authority  
32 receives annual reports from the eligible business and that allows  
33 the authority to confirm that the eligible business is in substantial  
34 good standing with the Department of Environmental Protection,  
35 the Department of Labor and Workforce Development, and the  
36 Department of the Treasury **【demonstrating that the eligible**  
37 **business and each contractor and subcontractor performing work at**  
38 **the qualified business facility is in compliance with the respective**  
39 **department】** , or has entered into an agreement with the respective  
40 department that includes a practical corrective action plan **【**, and a  
41 provision providing that if the eligible business is not in compliance  
42 with its legal obligations of rules administered by these departments  
43 and has been given formal notice thereof,**】** . As part of the annual  
44 reports required by this paragraph, the eligible business shall  
45 confirm that each contractor or subcontractor performing work at  
46 the qualified business facility: (1) is registered as required by “The  
47 Public Works Contractor Registration Act,” P.L.1999, c.238



1 (C.34:11-56.48 et seq.); (2) has not been debarred by Department of  
2 Labor and Workforce Development from engaging in or bidding on  
3 Public Works Contracts in the State; and (3) possesses a tax  
4 clearance certificate issued by the Division of Taxation in the  
5 Department of the Treasury. If the eligible business does not  
6 submit the report required under this paragraph, if the Department  
7 of Environmental Protection, the Department of Labor and  
8 Workforce Development, and the Department of the Treasury  
9 advises that the eligible business is neither in substantial good  
10 standing nor has entered into a practical corrective action plan, or if  
11 the eligible business fails to confirm that each contractor or  
12 subcontractor is in compliance with this paragraph, then the  
13 **【authority】** eligible business may 【suspend】 forfeit the issuance of  
14 tax credits, pending resolution of the 【dispute】 underlying  
15 violations or other issues;

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

19 (10) a provision permitting the authority to amend the  
20 agreement;

21 and

22 (11) a provision establishing the conditions under which the  
23 authority, the eligible business, or both, may terminate the  
24 agreement.

25 b. (1) For a project whose total project cost equals or exceeds  
26 \$10 million, in addition to the project agreement, an eligible  
27 business shall enter into a community benefits agreement with the  
28 authority and the county or municipality in which the qualified  
29 business facility is located. The agreement may include, but shall  
30 not be limited to, requirements for training, employment, and youth  
31 development and free services to underserved communities in and  
32 around the community in which the qualified business facility is  
33 located. Prior to entering a community benefits agreement, the  
34 governing body of the county or municipality in which the qualified  
35 business facility is located shall hold at least one public hearing at  
36 which the governing body shall hear testimony from residents,  
37 community groups, and other stakeholders on the needs of the  
38 community that the agreement should address.

39 (2) The community benefits agreement shall provide for the  
40 creation of a community advisory committee to oversee the  
41 implementation of the agreement, monitor successes, ensure  
42 compliance with the terms of the agreement, and produce an annual  
43 public report. The community advisory committee created pursuant  
44 to this paragraph shall be comprised of representatives from  
45 community groups and residents of the county or municipality in  
46 which the qualified business facility is located.

47 (3) At the time the eligible business submits the annual report  
48 required pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) to

1 the authority, the eligible business shall certify, under the penalty of  
2 perjury, that it is in compliance with the terms of the community  
3 benefits agreement. If the eligible business fails to provide the  
4 certification required pursuant to this paragraph or the authority  
5 determines that the eligible business is not in compliance with the  
6 terms of the community benefits agreement based on the reports  
7 submitted by the community advisory committee pursuant to  
8 paragraph (2) of this subsection, then the authority may rescind the  
9 award or recapture all or part of any tax credits awarded.

10 (4) An eligible business shall not be required to enter into a  
11 community benefits agreement pursuant to this subsection if the  
12 eligible business submits to the authority a copy of the either  
13 eligible business's [project agreement that] approval letter from the  
14 authority or a redevelopment agreement applicable to the qualified  
15 business facility, provided that the approval letter or redevelopment  
16 agreement is certified by the municipality in which the project is  
17 located and includes provisions that meet or exceed the standards  
18 required for a community benefits agreement in this subsection, as  
19 determined by the chief executive officer pursuant to rules adopted  
20 by the authority.

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

22

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

25 74. a. **[Commencing with the date six months following the**  
26 **date]** Following board approval within a time established by the  
27 authority and prior to the authority and an eligible business  
28 **[execute]** executing a project agreement, the eligible business shall  
29 demonstrate that it has obtained site plan approval and has  
30 committed financing for, and site control of, the qualified business  
31 facility. If the eligible business obtained site control of the  
32 qualified business facility prior to the execution of the letter of  
33 intent pursuant to section 72 of P.L.2020, c.156 (C.34:1B-340), then  
34 the authority may rescind approval of the award of tax credits,  
35 unless the eligible business disclosed the fact that the eligible  
36 business had obtained the site prior to executing the letter of intent  
37 and the authority determines that the award of tax credits was still a  
38 material factor in the eligible business's decision to create or retain  
39 the minimum number of new and retained full-time jobs for  
40 eligibility under the program. The eligible business shall provide  
41 an estimated date of completion and shall submit periodic progress  
42 reports. The authority may rescind an award of tax credits if an  
43 eligible business fails to provide the information required under this  
44 section within the period indicated in the approval of the tax credits  
45 by the board. The authority may rescind an award of tax credits  
46 under the program if a project fails to advance in accordance with  
47 the project agreement.

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

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

41       d. The **[owner]** chief executive officer of the eligible business,  
42 or an **[authorized agent of the owner]** equivalent officer, shall  
43 certify that the information provided pursuant to this section is true  
44 under the penalty of perjury.

45 (cf: P.L.2020, c.156, s.74)

46

47       35. Section 75 of P.L.2020, c.156 (C.34:1B-343) is amended to  
48 read as follows:

- 1       75. a. The total amount of the tax credit for an eligible business  
2 for each new or retained full-time job shall be as set forth in  
3 subsections b. through g. of this section. The total tax credit  
4 amount shall be calculated and credited to the business annually for  
5 each year of the eligibility period, notwithstanding any other  
6 provisions of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary.
- 7       b. The base amount of the tax credit for each new or retained  
8 full-time job for an eligible business shall be as follows:
- 9       (1) for **an eligible** a qualified business facility located within  
10 a government-restricted municipality, or which is a mega project,  
11 \$4,000 per year;
- 12       (2) for a qualified business facility located within an enhanced  
13 area, \$3,500 per year;
- 14       (3) for a qualified business facility located within a distressed  
15 municipality, \$3,000 per year;
- 16       (4) for a project in a qualified opportunity zone or an  
17 employment and investment corridor, \$2,500 per year; and
- 18       (5) for a project in other eligible areas, \$500 per year.
- 19       c. (1) In addition to the base amount of the tax credit, the  
20 amount of the tax credit to be awarded for each new or retained full-  
21 time job shall be increased with the following bonuses:
- 22       (a) for an eligible business with a qualified business facility  
23 located in a municipality with a Municipal Revitalization Index  
24 distress score greater than 50, an increase of \$1,000 per year;
- 25       (b) for an eligible business with a qualified business facility at  
26 which the capital investment in industrial or research and  
27 development premises for industrial or research and development  
28 use by the business is in excess of the minimum capital investment  
29 required for eligibility pursuant to subsection b. of section 71 of  
30 P.L.2020, c.156 (C.34:1B-339), an increase of **[\$1,000]** \$500 per  
31 year for each additional amount of investment that exceeds the  
32 minimum amount required for eligibility by 40 percent, with a  
33 maximum increase of **[\$3,000]** \$1,500 per year, unless the project  
34 qualifies as a mega project or the qualified business facility is  
35 located in a government-restricted municipality, in which case the  
36 maximum increase is \$5,000 per year;
- 37       (c) for an eligible business with large numbers of new full-time  
38 jobs during the **commitment** eligibility period, the increases shall  
39 be in accordance with the following schedule:
- 40       (i) if the number of new full-time jobs is between 251 and 400,  
41 \$500 per year;
- 42       (ii) if the number of new full-time jobs is between 401 and 600,  
43 \$750 per year;
- 44       (iii) if the number of new full-time jobs is between 601 and 800,  
45 **[\$1000]** \$1,000 per year;
- 46       (iv) if the number of new full-time jobs is between 801 and  
47 1,000, \$1,250 per year;

- 1 (v) if the number of new full-time jobs is in excess of 1,000,  
2 \$1,500 per year;
- 3 (d) for an eligible business that annually funds an industry-  
4 specific training program, which has the capacity to enroll 10  
5 percent or more of the eligible business's full-time workforce, or  
6 pays a State educational institution to provide to the public an  
7 industry-specific training program, an increase of \$500 per year;  
8 provided, however, that if the training program is provided by a  
9 State educational institution that is within 10 miles of the qualified  
10 business facility, then the increase shall be \$1,000 per year;
- 11 (e) for an eligible business that qualifies as a small business, an  
12 increase of \$500 per year;
- 13 (f) for an eligible business with new full-time jobs and retained  
14 full-time jobs at the qualified business facility with a median salary  
15 in excess of the existing median salary for the county in which the  
16 project is located, or, in the case of a project in a government-  
17 restricted municipality, a business **【that employs】** with employees  
18 in full-time positions at the project with a median salary in excess  
19 of the median salary for the government-restricted municipality, an  
20 increase of **【\$250】** \$200 per year during the eligibility period for  
21 each 35 percent by which the project's median salary levels exceeds  
22 the county or government-restricted municipality median salary,  
23 with a maximum increase of **【\$1,500】** \$1,000 per year;
- 24 (g) **【for an eligible business with a qualified business facility**  
25 **located in a qualified incentive tract, an increase of \$500 per year】**  
26 (Deleted by amendment, P.L. , c. ) (pending before the  
27 Legislature as this bill);
- 28 (h) for an eligible business engaged primarily in a targeted  
29 industry, an increase of \$500 per year;
- 30 (i) for an eligible business with a qualified business facility  
31 located in a qualified incubator facility, an increase of \$500 per  
32 year;
- 33 (j) for an eligible business that enters into a labor harmony  
34 agreement in accordance with section 69 of P.L.2020, c.156  
35 (C.34:1B-337), an increase of \$2,000 per year for the portion of the  
36 project subject to that labor harmony agreement; provided further  
37 that an eligible business receiving a bonus under this subparagraph  
38 may exceed the limitation applicable to the eligible business  
39 pursuant to subsection d. of this section by an amount not to exceed  
40 \$1,000;
- 41 (k) for an eligible business that provides its employees access to  
42 child care either through an on-site quality child care facility free of  
43 charge to its employees or through reimbursements paid by the  
44 eligible business to its employees for the cost of child care in  
45 accordance with standards adopted by the authority, an increase of  
46 \$1,000 per year;

- 1 (l) for an eligible business that enters, or has previously  
2 entered, into **[a]** an active partnership with a **[prisoner]** re-entry  
3 program for the purpose of identifying and promoting employment  
4 opportunities at the eligible business for former inmates and current  
5 inmates leaving the corrections system, and that hires at least one  
6 active participant in the re-entry program as a full-time employee,  
7 an increase of \$500 per year.
- 8 (m) for an eligible business with a qualified business facility that  
9 exceeds the Leadership in Energy and Environmental Design's  
10 "Silver" rating standards but does not exceed "Gold" rating  
11 standards or completes substantial environmental remediation, an  
12 additional increase of \$250 per year, or for an eligible business with  
13 a qualified business facility that exceeds the Leadership in Energy  
14 and Environmental Design's "Gold" rating standards, an additional  
15 increase of \$500 per year;
- 16 (n) for an eligible business in a targeted industry with a  
17 qualified business facility that is used by the eligible business to  
18 conduct a full time collaborative relationship with a college or  
19 university, including, but not limited to, a doctoral university, an  
20 increase of \$1,000 per year;
- 21 (o) for an eligible business with a project that generates solar ,  
22 geo-thermal, wind, or any other renewable or distributed energy on  
23 site for use within the qualified business facility of an amount that  
24 equals at least 50 percent of the qualified business facility electric  
25 supply service needs, an increase of \$500 per year;
- 26 (p) for an eligible business with a marine terminal project in a  
27 municipality located outside a government-restricted municipality,  
28 but within the geographical boundaries of the South Jersey Port  
29 District, an increase of \$1,500 per year;
- 30 (q) for an eligible business with a qualified business facility  
31 located in a qualified opportunity zone, an increase of \$1,000 per  
32 year; and
- 33 (r) for an eligible business if one-third or more of the members  
34 of the eligible business's governing board or other governing body  
35 self-identify as members of an underrepresented community, which  
36 may include Black, African American, Hispanic, Latino, Asian,  
37 Pacific Islander, Native American, Native Hawaiian, Alaska Native  
38 or gay, lesbian, bisexual or transgender, an increase of \$2,000 per  
39 year for each new or retained full-time job. The authority shall work  
40 with the Chief Diversity Officer or other State entities to ensure that  
41 the bonus provided under this subparagraph is implemented  
42 faithfully and in compliance with law.
- 43 (2) The authority shall not award a bonus to an eligible business  
44 with full-time jobs at the qualified business facility that pay less  
45 than \$15 per hour or 120 percent of the minimum wage fixed under  
46 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),  
47 whichever is higher.

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

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

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

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

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

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

25 (5) for a qualified business facility in other eligible areas, the  
26 gross amount for each new or retained full-time job shall not exceed  
27 \$3,000 per year.

28 e. The authority shall reduce the gross amount of tax credits  
29 per full-time job: (1) if the median salary of new full-time jobs and  
30 retained full-time jobs [at the qualified business facility] subject to  
31 the project agreement is less than the existing median salary for the  
32 county in which the qualified business facility is located; or (2) for  
33 a project located in a government-restricted municipality, if the  
34 median salary of new full-time jobs and retained full-time jobs  
35 subject to the project agreement is less than the existing median  
36 salary for the municipality in which the qualified business facility is  
37 located. The authority shall reduce the gross amount of tax credits  
38 per full-time job by an amount, in percentage points, equal to the  
39 percentage the median salary of new full-time jobs and retained  
40 full-time jobs [at the qualified business facility] subject to the  
41 project agreement is below the existing median salary for the  
42 county or government-restricted municipality in which the qualified  
43 business facility is located. The authority shall not award a tax  
44 credit to an eligible business if the median salary of new full-time  
45 jobs and retained full-time jobs [at the qualified business facility]  
46 that would otherwise be subject to the project agreement is 30  
47 percent or more below the relevant existing median salary for the

1 county or government-restricted municipality in which the qualified  
2 business facility is located.

3 f. After the determination by the authority of the gross amount  
4 of tax credits for which an eligible business is eligible pursuant to  
5 subsection d. of this section, the final total tax credit amount shall  
6 be calculated as follows: (1) for each new full-time job, the eligible  
7 business shall be allowed tax credits equaling **【the lesser of】** 100  
8 percent of the gross amount of tax credits for each new full-time  
9 job; and (2) for each retained full-time job, the eligible business  
10 shall be allowed tax credits equaling 50 percent of the gross amount  
11 of tax credits for each retained full-time job.

12 g. Notwithstanding the provisions of subsections a. through f.  
13 of this section to the contrary, for each application approved by the  
14 board, the amount of tax credits available to be applied by the  
15 business annually shall not exceed an amount determined by the  
16 authority to be necessary to induce the project to be sited in New  
17 Jersey as determined by the board. The authority shall determine  
18 the amount necessary to complete the project through staff analysis  
19 of all locations under consideration by the eligible business and all  
20 lease agreements, ownership documents, or substantially similar  
21 documentation for the eligible business's **【current】** proposed in-  
22 State locations and potential out-of-State location alternatives,  
23 competitive proposals from other states, the prevailing economic  
24 conditions, and any other information that the authority deems  
25 relevant.

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

27

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

30 76. a. (1) If, in any tax period, an eligible business reduces the  
31 total number of full-time employees in its Statewide workforce by  
32 more than 20 percent from the number of full-time employees in its  
33 Statewide workforce in the last tax period prior to the credit amount  
34 approval under the program, then the eligible business shall forfeit  
35 its credit amount for that tax period and each subsequent tax period,  
36 until the first tax period for which documentation demonstrating the  
37 restoration of the eligible business's Statewide workforce to the  
38 threshold levels required by this subsection has been reviewed and  
39 approved by the authority, for which tax period and each  
40 subsequent tax period the full amount of the credit shall be allowed.

41 (2) If the annual report filed by an eligible business pursuant to  
42 section 77 of P.L.2020, c.156 (C.34:1B-345) provides that the  
43 number of new full-time employees employed by the eligible  
44 business **【at the qualified business facility】** subject to the project  
45 agreement, or the salaries thereof, was reduced by more than 10  
46 percent of the number of new full-time employees, or salaries  
47 thereof, in the annual report of the prior year, or the project  
48 agreement if the annual report is the first such report filed, then the



1 authority may reevaluate the net positive economic benefit of the  
2 project and reduce the size of the award accordingly. This reduction  
3 shall not affect any recapture under subsection f. of this section.

4 b. If, in any tax period, the number of full-time employees  
5 employed by the eligible business **【at the qualified business**  
6 **facility】** subject to the project agreement, or the salaries thereof,  
7 drops below 80 percent of the number of new and retained full-time  
8 jobs, and the salaries thereof, specified in the project agreement or  
9 the **【incentive】** project phase agreement, then the eligible business  
10 shall forfeit its tax credit amount for that tax period and each  
11 subsequent tax period, until the first tax period for which  
12 documentation demonstrating the restoration of the number of full-  
13 time employees employed by the eligible business **【at the qualified**  
14 **business facility】** subject to the project agreement to 80 percent of  
15 the number of jobs specified in the project agreement or **【incentive】**  
16 project phase agreement or the restoration of 80 percent of the  
17 salaries specified in the project agreement is reviewed and approved  
18 by the authority.

19 c. Except for an eligible business that is a small business  
20 engaged primarily in a targeted industry **【with less than 50**  
21 **employees at application】**:

22 (1) If the qualified business facility is sold in whole or in part  
23 during the eligibility period, the new owner shall not acquire the  
24 capital investment of the seller, provided, however, that any tax  
25 credits of tenants shall remain unaffected. The seller shall forfeit  
26 all tax credits for the tax period in which the sale occurs and all  
27 subsequent tax periods, provided, however, that an eligible business  
28 may change the location of the qualified business facility if **【**:

29 (a)**】**the new facility:

30 **【(i)】** (a) meets all applicable location qualifying criteria and has  
31 gross leasable area not less than the gross leasable area of the  
32 qualified business facility initially approved by the authority and  
33 the alternate qualified business facility meets the minimum capital  
34 investment and sustainability requirements of the program; or

35 **【(ii)】** (b) does not meet all applicable location qualifying  
36 criteria or has less gross leasable area than the gross leasable area of  
37 the qualified business facility initially approved by the authority, if  
38 the alternate qualified business facility meets the minimum capital  
39 investment and sustainability requirements of the program, provided  
40 that the authority shall require a **【new cost benefit analysis】** cost  
41 comparison of the originally approved location and the alternate  
42 qualified business facility illustrating the respective economics of  
43 the project which reflect occupancy at the alternate proposed  
44 qualified business facility location for the remaining duration of the  
45 commitment period and shall re-calculate the net economic benefit  
46 of the project to reflect the economics of occupancy at the alternate  
47 proposed location for the remaining duration of the net benefit test

1 period in lieu of the economics of continuing occupancy at the  
2 qualified business facility proposed to be vacated, and provided  
3 further that the award of tax credits shall be reduced consistent with  
4 the variations in qualifying criteria for the alternate qualified  
5 business facility location as well as in a manner consistent with the  
6 revised net economic benefit calculation.

7 **[(b) in]** In the event that the modified project economics  
8 materially deviate from the economics of the initial approval in a  
9 manner that undermines the recommendation of approval made by  
10 the staff of the authority at the time of the initial approval, then the  
11 business requesting to re-locate a qualified business facility shall be  
12 required to obtain the approval of the members of the authority.

13 (2) If a tenant subleases its tenancy in whole or in part during  
14 the eligibility period, the new tenant shall not acquire the tax credits  
15 of the sublessor, and the sublessor shall forfeit all tax credits for  
16 any tax period of its sublease in which the sublessor, in continued  
17 occupation of a portion of the qualified business facility, fails to  
18 maintain the number of jobs required for the sublessor to earn tax  
19 credits for the tax period or fails to independently satisfy the  
20 minimum capital investment or sustainability requirements for the  
21 program as set forth in section 71 of P.L.2020, c.156 (C.34:1B-  
22 339). Provided, however, if the capital investment of the sublessor  
23 in the occupied portion of the qualified business facility is below  
24 the project minimum capital investment as set forth in section 71 of  
25 P.L.2020, c.156 (C.34:1B-339), the sublessor may include capital  
26 investment made by or on behalf of the new tenant in the subleased  
27 portion of the qualified business facility, so long as that capital  
28 investment is not the subject of an independent application under an  
29 incentive program with the authority.

30 d. A small business may move its qualified business facility  
31 provided that the business remains in New Jersey during the  
32 commitment period.

33 e. The authority may require a small business to submit a  
34 growth plan, which specifies the number of new full-time  
35 employees **[(at the qualified business facility)]** in the State that the  
36 eligible business will hire each year of the eligibility period;  
37 provided that by the end of the eligibility period, the eligible  
38 business shall have a minimum of 25 percent growth of its  
39 workforce with new full-time jobs. If the eligible business meets  
40 the number of new full-time employees specified in the growth plan  
41 each year of the eligibility period, then the eligible business shall be  
42 entitled to an increased credit amount for that tax period, and each  
43 subsequent tax period, for each additional full-time employee added  
44 above the number of full-time employees certified, until the full-  
45 time employees number the maximum number projected for the  
46 final year of the eligibility period. Failure to meet the projections  
47 in any year shall not constitute a default but shall cause the

1 authority to reduce the award in accordance with a schedule  
2 attached to the project agreement.

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

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

23 (3) Any funds, net of costs incurred by the authority, recaptured  
24 pursuant to this subsection, including penalties and interest, shall be  
25 deposited into the General Fund of the State.

26 g. A business may include an affiliate for any period, provided  
27 that the business provides a valid tax clearance certificate for the  
28 affiliate and a verification of the nature of the affiliate relationship  
29 during the relevant period, and provided further that the affiliate  
30 provides acceptable responses to the authority's legal disclosures  
31 inquiries, as determined by the authority. A formal modification of  
32 the authority's approval of the **【incentive】** project agreement shall  
33 not be necessary to add or remove an affiliate after approval or  
34 execution of the **【incentive】** project agreement.

35 h. A business may change its name filed with the authority by  
36 providing a copy of the filed amendment to the certificate of  
37 incorporation or formation, as the case may be, of the business and  
38 a valid tax clearance certificate with the business's new name. A  
39 formal modification of the authority's approval shall not be  
40 necessary to change a business's name after approval or execution  
41 of the **【incentive】** project agreement.

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

43

44 37. Section 77 of P.L.2020, c.156 (C.34:1B-345) is amended to  
45 read as follows:

46 77. a. (1) An eligible business which is awarded tax credits  
47 under the program shall submit annually, no later than the date  
48 indicated in the project agreement, commencing in the year in

1 which the grant of tax credits is issued and for the remainder of the  
2 commitment period, a report that indicates that the eligible business  
3 continues to maintain the number of new and retained full-time  
4 jobs, and the salaries thereof, specified in the project agreement.  
5 As part of the annual report required pursuant to this subsection, an  
6 eligible business shall provide to the authority a copy of its  
7 applicable New Jersey tax return showing business income and  
8 withholdings as a condition of its continuation in the program, and  
9 the quarterly wage report required under R.S.43:21-14 submitted to  
10 the Department of Labor and Workforce Development together with  
11 an annual payroll report showing: (a) the new full-time jobs which  
12 were created in accordance with the project agreement, and (b) the  
13 new full-time jobs created during each subsequent year of the  
14 commitment period. The failure of an eligible business to submit to  
15 the authority a copy of its annual payroll report or submit the  
16 quarterly wage report in accordance with the provisions of this  
17 subsection during the eligibility period shall result in the forfeiture  
18 of the award for that year. An eligible business shall explain, in the  
19 reports required by this subsection, the reason for any discrepancies  
20 between the annual payroll report submitted by the eligible business  
21 and the quarterly wage report. The **owner** chief executive officer  
22 of the eligible business, or an **authorized agent of the owner**  
23 equivalent officer, shall certify that the information provided  
24 pursuant to this paragraph is true under the penalty of perjury.  
25 Claims, records, or statements submitted by an eligible business to  
26 the authority in order to receive tax credits shall not be considered  
27 claims, records, or statements made in connection with State tax  
28 laws.

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

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

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

46 c. Full-time employment for an accounting or privilege period  
47 shall be determined as the average of the monthly full-time  
48 employment for the period.

1 d. (1) Upon receipt by the director of the certificate of  
2 compliance, the director shall allow the eligible business a tax  
3 credit. The eligible business may apply the credit allowed by the  
4 director against the eligible business's tax liability for the tax period  
5 in which the director allowed the tax credit or may carry forward  
6 the credit for use by the eligible business in any of the next seven  
7 successive tax periods, which credit shall expire thereafter.

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

13 (b) Credits granted to a partnership shall be passed through to  
14 the partners, members, or owners, respectively, pro-rata, or  
15 pursuant to an executed agreement among the partners, members, or  
16 owners documenting an alternate distribution method provided to  
17 the director accompanied by any additional information as the  
18 director may prescribe. With respect to credits passed through to a  
19 person subject to tax liability due pursuant to section 2 or 3 of  
20 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), the person shall be  
21 allowed to apply credits against the person's tax liability without the  
22 provision of a tax credit certificate to the Division of Taxation in  
23 the Department of the Treasury for the tax period accompanying the  
24 person's tax return and the person shall be considered the tax  
25 certificate holder and be subject to subparagraph (c) of this  
26 paragraph. The authority may recapture all or part of any tax  
27 credits claimed by a person pursuant to subparagraph (b) of this  
28 paragraph with penalties and interest from the person or the  
29 business in the event the Division of Taxation in the Department of  
30 the Treasury does not issue a tax credit certificate in an amount at  
31 least equal to the tax credit amount claimed on the person's tax  
32 return for the applicable tax period.

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

42 (4) In lieu of applying any credit certificate or credit transfer  
43 certificate against tax liability otherwise due pursuant to section 5  
44 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,  
45 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231  
46 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit  
47 transfer certificate may be surrendered to the Division of Taxation  
48 in the Department of the Treasury for a cash payment equal to 90

1 percent of the amount of tax credits evidenced by the certificate,  
2 provided that the issuance date of the credit certificate or credit  
3 transfer certificate to the taxpayer surrendering such certificate  
4 occurred at least two years prior to the date of surrender and the  
5 credit certificate or credit transfer certificate has not been sold or  
6 assigned previously.

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

8

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

11 79. a. The authority shall establish a dedicated fund to be  
12 known as the "Recovery Infrastructure Fund." Money in the fund  
13 shall be dedicated to the purpose of funding local infrastructure,  
14 which shall include:

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

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

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

21 (4) open space without improvements;

22 (5) public transportation facilities such as train stations and  
23 public parking facilities; and

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

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

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

33 d. A municipality shall apply to the authority, in a form and  
34 manner prescribed by the authority, for disbursements from the  
35 Recovery Infrastructure Fund. The authority, in consultation with  
36 the Department of Community Affairs, shall review and approve  
37 applications for disbursements of money from the fund pursuant to  
38 the provisions of this section and the rules and regulations  
39 promulgated by the authority pursuant to paragraph (1) of  
40 subsection f. of this section.

41 e. The Department of Community Affairs shall coordinate with  
42 the authority and other boards, commissions, institutions,  
43 departments, agencies, State officers, and employees to carry out  
44 the local infrastructure projects funded through the Recovery  
45 Infrastructure Fund.

46 f. (1) **【The】** Notwithstanding the provisions of the  
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
48 seq.), to the contrary, the chief executive officer of the authority

1 **【shall】** may adopt, immediately upon filing with the Office of  
2 Administrative Law, rules and regulations that the chief executive  
3 officer deems necessary to effectuate the purposes of subsections a.  
4 through d. of this section, which rules and regulations shall be  
5 effective for a period not to exceed 360 days from the date of the  
6 filing. The chief executive officer shall thereafter amend, adopt, or  
7 readopt the rules and regulations 【pursuant to the "Administrative  
8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate  
9 the purposes of subsections a. through d. of this section】 in  
10 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
11 et seq.).

12 (2) **【The】** Notwithstanding the provisions of the  
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
14 seq.), to the contrary, the Commissioner of the Department of  
15 Community Affairs 【shall】 may adopt, immediately upon filing  
16 with the Office of Administrative Law, rules and regulations that  
17 the commissioner deems necessary to effectuate the purposes of  
18 subsection e. of this section, which rules and regulations shall be  
19 effective for a period not to exceed 360 days from the date of the  
20 filing. The commissioner shall thereafter amend, adopt, or readopt  
21 the rules and regulations 【pursuant to the "Administrative  
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate  
23 the purposes of subsection e. of this section】 in accordance with the  
24 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

25 (cf: P.L.2020, c.156, s.79)

26

27 39. Section 83 of P.L.2020, c.156 (C.34:1B-350) is amended to  
28 read as follows:

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

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

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

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

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

45 "Program" means the Main Street Recovery Finance Program  
46 established pursuant to section 84 of P.L.2020, c.156 (C.34:1B-  
47 351).

1 "Small business" means a business engaged in the conduct of a  
2 trade or business in this State that qualifies as a "small business  
3 concern" within the meaning of the federal "Small Business Act,"  
4 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small  
5 business's eligibility assistance from the United States Small  
6 Business Administration.  
7 (cf: P.L.2020, c.156, s.83)  
8

9 40. Section 84 of P.L.2020, c.156 (C.34:1B-351) is amended to  
10 read as follows:

11 84. The Main Street Recovery Finance Program is hereby  
12 established as a program under the jurisdiction of the New Jersey  
13 Economic Development Authority. The authority shall administer  
14 the program for the purpose of providing grants, loans, and loan  
15 guarantees to eligible small businesses in accordance with the  
16 provisions of sections 82 through 88 of P.L.2020, c.156 (C.34:1B-  
17 349 et al.). A business seeking a grant, loan, or loan guarantee  
18 under the program shall submit an application to the authority. The  
19 authority shall adopt eligibility criteria for the program and may  
20 consider a business's benefit to the community in which it is  
21 situated and the degree to which the business enhances [and  
22 promotes job creation and] economic development in communities  
23 that have been severely impacted by the COVID-19 pandemic when  
24 making awards under the program.  
25 (cf: P.L.2020, c.156, s.84)  
26

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

29 85. a. As part of the Main Street Recovery Finance Program,  
30 the authority shall provide grants to eligible small businesses from  
31 the Main Street Recovery Fund, subject to appropriation or the  
32 availability of federal funds, provided that [not less than 40 percent  
33 of such funds shall be made available to eligible microbusinesses  
34 certified by the State as a "minority business" or a "women's  
35 business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.)] the  
36 authority shall undertake a disparity study of the relative  
37 availability of capital and related banking resources for small  
38 businesses and microbusiness that are women- and minority-owned  
39 business enterprises in this State and the authority's historic support  
40 of such businesses, and, as recommended by the study, shall  
41 establish policies, practices, protocols, and, if appropriate,  
42 minimum percentages of the fund to be set aside for eligible small  
43 businesses and microbusinesses that are minority-owned business  
44 enterprises or women-owned business enterprises. Grants awarded  
45 pursuant to the program may be used by an eligible small business  
46 for capital improvements or to cover operating expenses. The  
47 authority may dedicate up to 10 percent of [any] the amount



1 appropriated for the purposes of this section to provide technical  
2 assistance grants to for-profit or non-profit entities that are  
3 experienced in providing technical assistance services or to eligible  
4 microbusinesses to help such eligible microbusinesses in applying  
5 for the grants authorized under this section.

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

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

14 (b) each worker employed by the small business shall be paid  
15 not less than \$15 per hour or 120 percent of the minimum wage  
16 fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-  
17 56a4), whichever is higher, except an employee who customarily  
18 and regularly receives gratuities or tips shall be paid not less than  
19 120 percent of the minimum wage.

20 (2) In addition to the requirements of paragraph (1) of this  
21 subsection, a small business shall be eligible to receive a grant  
22 pursuant to this subsection for capital improvements only if the  
23 small business demonstrates to the authority at the time of  
24 application that:

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

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

39 c. **【Prior to March 1, 2025, an】** An eligible small business  
40 seeking a grant pursuant to this section shall submit an application  
41 for approval to the authority in the form and manner prescribed in  
42 regulations adopted by the authority pursuant to the provisions of  
43 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
44 seq.). Before the board may consider an eligible small business's  
45 application for grants, the authority shall confirm with the  
46 Department of Labor and Workforce Development, the Department  
47 of Environmental Protection, and the Department of the Treasury  
48 **【shall each report to the chief executive officer of the authority】**

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

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

21 (cf: P.L.2020, c.156, s.85)

22

23 42. Section 86 of P.L.2020, c.156 (C.34:1B-353) is amended to  
24 read as follows:

25 86. a. As part of the Main Street Recovery Finance Program,  
26 the authority shall make loans and grants available from the Main  
27 Street Recovery Fund, subject to annual appropriation and the  
28 availability of funds, to eligible community development finance  
29 institutions, minority depository institutions, and other eligible  
30 lenders pursuant to subsection b. of this section and to eligible  
31 microbusinesses pursuant to subsection c. of this section, provided  
32 that **【not less than 40 percent of such】** funds shall be made  
33 available to eligible microbusinesses certified by the State as a  
34 "minority business" or a "women's business" pursuant to P.L.1986,  
35 c.195 (C.52:27H-21.17 et seq.) in a manner consistent with  
36 authority requirements within paragraph a. of section 85 of  
37 P.L.2020, c.156 (C.34:1B-352). The authority may dedicate up to  
38 10 percent of **【any】** the amount appropriated for the purposes of  
39 this section to provide technical assistance grants to for-profit or  
40 non-profit entities that are experienced in providing technical  
41 assistance services or to eligible microbusinesses to help such  
42 eligible microbusinesses in applying for loan packaging services  
43 under the programs authorized to receive grants and loans pursuant  
44 to this section.

45 b. The authority shall provide loans and grants to eligible  
46 community development finance institutions, minority depository  
47 institutions, and other eligible lenders in accordance with this

1 subsection. Loans and grants made available to eligible community  
2 development finance institutions, minority depository institutions,  
3 and other eligible lenders pursuant to this paragraph shall be used to  
4 strengthen capital structures, leverage additional debt capital, and  
5 increase lending and investing in economically disadvantaged  
6 communities. The authority shall require an eligible community  
7 development finance institution, minority depository institution, or  
8 other eligible lender that receives a grant or loan pursuant to this  
9 subsection to enter into an agreement with the authority.

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

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

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

1 that any information provided in the application required pursuant  
2 to this subsection is true.

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

4

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

7 87. a. To aid in the economic recovery of those communities  
8 most impacted by the COVID-19 pandemic and to better ensure  
9 their long-term economic growth, there is created the "Main Street  
10 Recovery Fund" to be held by the State Treasurer and administered  
11 by the authority. All moneys deposited in the fund shall be held  
12 and disbursed in the amounts necessary to fulfill the purposes of  
13 providing grants and loans related to an identified program that is  
14 administered by the authority pursuant to sections 85 and 86 of  
15 P.L.2020, c.156 (C.34:1B-352 and C.34:1B-353) **【and】** ,for the  
16 purposes enumerated in subsection b. of this section, and for  
17 reasonable administrative costs of implementing sections 82  
18 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). The fund may  
19 be credited with pay backs; bonuses; entitlements; money received  
20 from the federal government; transfers; grants; gifts; bequests;  
21 moneys appropriated by the Legislature; or any other money made  
22 available from any source. The State Treasurer, in consultation  
23 with the authority, may invest and reinvest any moneys in the fund  
24 in the State Treasurer's discretion. Any income from, interest on, or  
25 increment to moneys so invested or reinvested shall be included in  
26 the fund.

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

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

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

1 (3) The authority, at the time the annual accounting required  
2 under paragraph (2) of this [section] subsection is provided, shall  
3 [include certifications by] confirm with the Department of Labor  
4 and Workforce Development, the Department of Environmental  
5 Protection, and the Department of the Treasury that the entity and  
6 the beneficiaries are in substantial good standing with the respective  
7 departments, or have entered into an agreement with the respective  
8 department that includes a practical corrective action plan.

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

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

13  
14 44. Section 90 of P.L.2020, c.156 (C.34:1B-355) is amended to  
15 read as follows:

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

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

29 c. Appointments to the working group shall be made within 30  
30 days after the effective date of ~~this act~~ P.L. , c. (pending  
31 before the Legislature as this bill). Vacancies in the membership of  
32 the working group shall be filled in the same manner as the original  
33 appointments were made.

34 d. Members of the working group shall serve without  
35 compensation, but the authority shall reimburse such members for  
36 actual expenses necessarily incurred in the discharge of their duties.

37 e. Members of the working group shall be subject to the  
38 provisions of subsection l. of section 4 of P.L.1974, c.80 (C.34:1B-  
39 4).

40 (cf: P.L.2020, c.156, s.90)

41  
42 45. Section 93 of P.L.2020, c.156 (C.34:1B-357) is amended to  
43 read as follows:

44 93. As used in sections 92 through 97 of P.L.2020, c.156  
45 (C.34:1B-356 through C.34:1B-361):

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

1 "Authority commitment period" means the period for which the  
2 authority commits to provide a start-up rent grant for the payment  
3 of rent in a collaborative workspace.

4 "Collaborative workspace" means a business facility certified  
5 pursuant to section 95 of P.L.2020, c.156 (C.34:1B-359), located in  
6 this State, developed to provide flexible workspaces for early stage  
7 innovation economy businesses, and designed to encourage  
8 community and collaboration within an inter-connected  
9 environment in which multiple start-up businesses have access to  
10 shared community events and shared workplace accommodations  
11 including, but not limited to, kitchens and makerspaces.

12 "Collaborative workspace commitment period" means a period of  
13 months equal to one-half the number of months of the authority  
14 commitment period.

15 "Community event" means an event hosted by a collaborative  
16 workspace and accessible to start-up tenant or member businesses,  
17 without charge or with nominal charge, organized to support an  
18 innovation ecosystem, as defined in section 21 of P.L.2020, c.156  
19 (C.34:1B-289), at the collaborative workspace, including, but not  
20 limited to, events such as meet-ups, speaker series, and office hours  
21 for lawyers, accountants, consultants, or investors.

22 "Early stage innovation economy business" means a business  
23 that operates within a targeted industry with at least one full-time  
24 employee, who is assigned to the collaborative workspace, and  
25 fewer than 10 employees overall and with less than \$1,000,000 in  
26 gross sales over the 12-month period immediately prior to  
27 submitting an application for tenancy at a collaborative workspace.  
28 To be considered an "early stage innovation economy business" the  
29 earliest date of formation for the business must have been not more  
30 than **[three]** seven years prior to utilizing or renting space in, or  
31 access to, the collaborative workspace under the program, and the  
32 business shall not have previously utilized or rented space in, or  
33 access to, another collaborative workspace in the State.

34 "Full time employee" means a person who is: employed by the  
35 start-up tenant or member business for at least 35 hours a week;  
36 working as an independent contractor providing critical capabilities  
37 to the start-up tenant or member business for at least 35 hours a  
38 week; or an owner or partner of the start-up tenant or member  
39 business who works for at start-up tenant or member business for at  
40 least 35 hours a week.

41 "Grant agreement" means an agreement between the authority  
42 and the owner and operator of a collaborative workspace which  
43 memorializes the terms and conditions of the collaborative  
44 workspace's participation in the program.

45 "Program" means the New Jersey Ignite Program established  
46 pursuant to section 94 of P.L.2020, c.156 (C.34:1B-358).

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

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

9 "Start-up rent grant" means a grant provided by the authority to a  
10 collaborative workspace for the rent that would otherwise be due to  
11 the collaborative workspace from a start-up tenant or member  
12 business for the period of the authority commitment period.

13 "Start-up tenant or member business" means an early stage  
14 innovation economy business that is registered to do business in  
15 New Jersey, rents space in, or access to, a collaborative workspace  
16 under the program, and enters into an agreement with the owner and  
17 operator of the collaborative workspace to rent space in, or access  
18 to, the collaborative workspace for an agreed upon period, which  
19 shall include the authority commitment period, collaborative  
20 workspace commitment period, and start-up tenant or member  
21 business commitment period.

22 "Start-up tenant or member business commitment period" means  
23 a period of months equal to the sum of the authority commitment  
24 period and the collaborative workspace commitment period.

25 (cf: P.L.2020, c.156, s.93)

26

27 46. Section 96 of P.L.2020, c.156 (C.34:1B-360) is amended to  
28 read as follows:

29 96. a. Up to the limits established in this subsection and in  
30 accordance with the grant agreement, the authority shall provide  
31 start-up rent grants to the owner and operator of a collaborative  
32 workspace through a series of scheduled payments as set forth in  
33 the grant agreement. The owner and operator of the collaborative  
34 workspace shall utilize the grant funding to provide rent-free space  
35 to a start-up tenant or member business that agrees to continue  
36 renting space in, or access to, the collaborative workspace for the  
37 start-up tenant or member business commitment period. The  
38 maximum start-up rent grant that the authority may provide to a  
39 collaborative workspace for the tenancy of a single start-up tenant  
40 or member business shall not exceed \$25,000, including bonus  
41 months. The maximum aggregate amount of start-up rent grants  
42 that the authority may provide to an approved collaborative  
43 workspace in a calendar year shall not exceed \$100,000.

44 b. The authority may provide a start-up rent grant for the  
45 payment of rent for space in, or access to, a collaborative workspace  
46 for up to six months; provided, however, if a collaborative  
47 workspace or start-up tenant or member business satisfies any of the  
48 bonuses set forth in paragraphs (1) through (5) of this subsection,

1 then the authority may provide an additional month of rent for each  
2 bonus satisfied by the collaborative workspace or start-up tenant or  
3 member business. Additional months of rent provided by the  
4 authority for bonus criteria satisfied by a collaborative workspace  
5 or start-up tenant or member business shall first be applied to the  
6 start-up tenant or member business commitment period, followed by  
7 the collaborative workspace commitment period. Any bonus  
8 months provided in excess of the combined commitment periods  
9 shall be forfeited. The authority may award a bonus **【to the owner**  
10 **and operator of a collaborative workspace】** month if:

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

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

15 (3) the collaborative workspace has been open less than 90 days  
16 from the date on which the owner and operator of the collaborative  
17 workspace applied to the authority to participate in the program and  
18 the collaborative workspace is not in the same location as an  
19 existing facility;

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

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

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

30 (2) In addition to the certification required pursuant to  
31 paragraph (1) of this subsection, the authority shall conduct an  
32 annual inspection and review of the collaborative workspace and  
33 may request documentation evidencing that the collaborative  
34 workspace utilized the start-up rent grant it received from the  
35 authority in accordance with the requirements of the program and  
36 the grant agreement.

37 d. (1) If a start-up tenant or member business stops occupying or  
38 accessing a collaborative workspace before the end of the start-up  
39 tenant or member business commitment period, then the  
40 collaborative workspace shall refund to the authority that portion of  
41 the start-up rent grant covering any period in which the start-up  
42 tenant or member business did not have space in, or access to, the  
43 collaborative workspace.

44 (2) If the authority determines that a collaborative workspace is  
45 not in compliance with the requirements of the program or of the  
46 grant agreement, then the authority **【shall】** may rescind the  
47 business facility's certification as a collaborative workspace and bar



1 the business facility from further participation in the program.  
2 (cf: P.L.2020, c.156, s.96)

3

4 47. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to  
5 read as follows:

6 98. a. The combined value of all tax credits awarded under the  
7 "Historic Property Reinvestment Act," sections 1 through 8 of  
8 P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276), the  
9 "Brownfield Redevelopment Incentive Program Act," sections 9  
10 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287),  
11 the "New Jersey Innovation Evergreen Act," sections 20 through 34  
12 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the "Food  
13 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156  
14 (C.34:1B-303 through C.34:1B-310), the "New Jersey Community-  
15 Anchored Development Act," sections 43 through 53 of P.L.2020,  
16 c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire  
17 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-  
18 322 through C.34:1B-335); **and** the "Emerge Program Act,"  
19 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and  
20 section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an  
21 overall cap of \$11.5 billion over a seven-year period, subject to the  
22 conditions and limitations set forth in this section. Of this \$11.5  
23 billion, \$2.5 billion shall be reserved for transformative projects  
24 approved under the Aspire Program **[or the Emerge Program]**.

25 b. (1) The total value of tax credits awarded under any  
26 constituent program of the "New Jersey Economic Recovery Act of  
27 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the  
28 following annual limitations, except as otherwise provided in  
29 subsection c. of this section:

30 (a) for tax credits awarded under the "Historic Property  
31 Reinvestment Act," sections 1 through 8 of P.L.2020, c.156  
32 (C.34:1B-269 through C.34:1B-276), the total value of tax credits  
33 annually awarded during each of the first six years of the seven-year  
34 period shall not exceed \$50 million;

35 (b) for tax credits awarded under the "Brownfield  
36 Redevelopment Incentive Program Act," sections 9 through 19 of  
37 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the total  
38 value of tax credits annually awarded during each of the first six  
39 years of the seven-year period shall not exceed \$50 million;

40 (c) for tax credits awarded under the "New Jersey Innovation  
41 Evergreen Act," sections 20 through 34 of P.L.2020, c.156  
42 (C.34:1B-288 through C.34:1B-302), the total value of tax credits  
43 annually awarded during each of the first six years of the seven-year  
44 period shall not exceed \$60 million and the total value of tax credits  
45 awarded over the entirety of the seven-year program shall not  
46 exceed \$300,000,000;

47 (d) for tax credits awarded under the "Food Desert Relief Act,"  
48 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through

1 C.34:1B-310), the total value of tax credits annually awarded during  
2 each of the first six years of the seven-year period shall not exceed  
3 \$40 million;

4 (e) for tax credits awarded under the "New Jersey Community-  
5 Anchored Development Act," sections 43 through 53 of P.L.2020,  
6 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax  
7 credits annually awarded during each of the first six years of the  
8 seven-year period shall not exceed \$200 million, except that during  
9 each of the first six years of the seven-year period, the authority  
10 shall annually award tax credits valuing no greater than \$130  
11 million for projects located in the 13 northern counties of the State,  
12 and the authority shall annually award tax credits valuing no greater  
13 than \$70 million for projects located in the eight southern counties  
14 of the State. If during any of the first six years of the seven-year  
15 period, the authority awards tax credits in an amount less than the  
16 annual limitation for projects located in northern counties or  
17 southern counties, as applicable, the uncommitted portion of the  
18 annual limitation shall be available to be deployed by the authority  
19 in a subsequent year, provided that the uncommitted portion of tax  
20 credits shall be awarded for projects located in the applicable  
21 geographic area, except that (i) after the completion of the third  
22 year of the seven-year period, the authority may deploy 50 percent  
23 of the uncommitted portion of tax credits from any previous year  
24 without consideration to the county in which a project is located;  
25 and (ii) after the completion of the sixth year of the seven-year  
26 period, the authority may deploy all available tax credits, including  
27 the uncommitted portion of the annual limitation for any previous  
28 year, without consideration to the county in which a project is  
29 located;

30 (f) for tax credits awarded under the "New Jersey Aspire  
31 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-  
32 322 through C.34:1B-335), and the "Emerge Program Act," sections  
33 68 through 81 of P.L.2020, c.156 **[(C.34:1B-34:1B-336 et al.)]**  
34 (C.34:1B-336 et al.), not including tax credits awarded for  
35 transformative projects, the total value of tax credits annually  
36 awarded during each of the first six years of the seven-year period  
37 shall not exceed \$1.1 billion **[, except that during]** . If the authority  
38 awards tax credits in an amount less than the annual limitation, then  
39 the uncommitted portion of the annual limitation shall be made  
40 available for qualified offshore wind projects awarded under section  
41 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h)  
42 of this paragraph, or New Jersey studio partners awarded under  
43 sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-  
44 12b), pursuant to subparagraph (i) of this paragraph. During each  
45 of the first six years of the seven-year period, the authority shall  
46 annually award tax credits valuing no greater than \$715 million for  
47 projects located in the northern counties of the State, and the  
48 authority shall annually award tax credits valuing no greater than

1 \$385 million for projects located in the southern counties of the  
2 State under the "New Jersey Aspire Program Act," sections 54  
3 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),  
4 and the "Emerge Program Act," sections 68 through 81 of P.L.2020,  
5 c.156 (C.34:1B-336 et al.). If during any of the first six years of the  
6 seven-year period, the authority awards tax credits under the "New  
7 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,  
8 c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge  
9 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-  
10 336 et al.), in an amount less than the annual limitation for projects  
11 located in northern counties or southern counties, as applicable, the  
12 uncommitted portion of the annual limitation shall be available to  
13 be deployed by the authority in a subsequent year, provided that the  
14 uncommitted portion of tax credits shall be awarded for projects  
15 located in the applicable geographic area, except that (i) after the  
16 completion of the third year of the seven-year period, the authority  
17 may deploy 50 percent of the uncommitted portion of tax credits for  
18 any previous year without consideration to the county in which a  
19 project is located; and (ii) after the completion of the sixth year of  
20 the seven-year period, the authority may deploy all available tax  
21 credits, including the uncommitted portion of the annual limitation  
22 for any previous year, without consideration to the county in which  
23 a project is located; **[and]**

24 (g) for tax credits awarded for transformative projects under the  
25 "New Jersey Aspire Program Act," sections 54 through 67 of  
26 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) **],** and the  
27 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156  
28 (C.34:1B-336 et al.)**],** the total value of tax credits awarded during  
29 the seven-year period shall not exceed \$2.5 billion. The total value  
30 of tax credits awarded for transformative projects in a given year  
31 shall not be subject to an annual limitation, except that **[no more**  
32 **than 10 transformative projects shall be awarded tax credits during**  
33 **the seven-year period, and]** the total value of tax credits awarded to  
34 any transformative project shall not exceed **[\$250] \$350 million;**

35 (h) from the tax credits made available, pursuant to  
36 subparagraph (f) of this paragraph, to the "New Jersey Aspire  
37 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-  
38 322 through C.34:1B-335), and the "Emerge Program Act," sections  
39 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not  
40 including tax credits awarded for transformative projects, an  
41 amount not to exceed \$350,000,000 shall be made available for  
42 qualified offshore wind projects awarded a credit pursuant to  
43 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three  
44 years of the seven-year period; and

45 (i) beginning in fiscal year 2025, from the tax credits made  
46 available, pursuant to subparagraph (f) of this paragraph, to the  
47 "New Jersey Aspire Program Act," sections 54 through 67 of

1 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the  
2 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156  
3 (C.34:1B-336 et al.), not including tax credits awarded for  
4 transformative projects, additional amounts shall be made available  
5 for New Jersey studio partners pursuant to sections 1 and 2 of  
6 P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b).

7 (2) The authority may in any given year determine that it is in  
8 the State's interest to approve an amount of tax credits in excess of  
9 the annual limitations set forth in paragraph (1) of this subsection,  
10 but in no event more than \$200,000,000 in excess of the annual  
11 limitation, upon a determination by the authority board that such  
12 increase is warranted based on specific criteria that may include:

13 (i) the increased demand for opportunities to create or retain  
14 employment and investment in the State as indicated by the volume  
15 of project applications and the amount of tax credits being sought  
16 by those applications;

17 (ii) the need to protect the State's economic position in the event  
18 of an economic downturn;

19 (iii) the quality of project applications and the net economic  
20 benefit to the State and municipalities associated with those  
21 applications;

22 (iv) opportunities for project applications to strengthen or protect  
23 the competitiveness of the state under the prevailing market  
24 conditions;

25 (v) enhanced access to employment and investment for  
26 underserved populations in distressed municipalities and qualified  
27 incentives tracts;

28 (vi) increased investment and employment in high-growth  
29 technology sectors and in projects that entail collaboration with  
30 education institutions in the State;

31 (vii) increased development proximate to mass transit facilities;

32 (viii) any other factor deemed relevant by the authority.

33 c. In the event that the authority in any year approves projects  
34 for tax credits in an amount less than the annual limitations set forth  
35 in paragraph (1) of subsection b. of this section, then the  
36 uncommitted portion of the annual limitation shall be available to  
37 be deployed by the authority in future years for projects under the  
38 same program; provided however, that in no event shall the  
39 aggregate amount of tax credits approved be in excess of the overall  
40 cap of \$11.5 billion, and in no event shall the uncommitted portion  
41 of the annual limitation for any previous year be deployed after the  
42 conclusion of the seven-year period.

43 (cf: P.L.2020, c.156, s.98)

44

45 48. Section 101 of P.L.2020, c.156 (C.34:1B-365) is amended to  
46 read as follows:

47 101. a. The New Jersey Economic Development Authority shall  
48 employ a Chief Compliance Officer, who shall be appointed by the

1 Chief Executive Officer of the authority **【**to manage the Division of  
2 Portfolio Management and Compliance in the authority**】**.

3 b. The Chief Compliance Officer shall:

4 (1) create, maintain, monitor, and coordinate procedures to  
5 ensure that all economic development incentive programs, authority  
6 employees, and economic development incentive program  
7 applicants and recipients comply fully with the requirements of the  
8 corresponding economic development incentive program;

9 (2) **【**conduct,**】** on such periodic basis as determined by the  
10 authority, arrange for systematic audits of economic development  
11 incentive programs for compliance with the laws, regulations,  
12 codes, orders, procedures, advisory opinions and rulings concerning  
13 those programs;

14 (3) maintain a central database of information concerning the  
15 management of all economic development incentive programs and  
16 information on economic development incentive program applicants  
17 and recipients to provide for the regular and ongoing reporting,  
18 verification, and monitoring of the State's economic development  
19 incentive programs;

20 (4) prior to the adoption of any rule or regulation by the  
21 authority or the board related to the general administration of the  
22 programs administered by the authority pursuant to section 6 of  
23 P.L.2020, c.156 (C.34:1B-274), section 19 of P.L.2020, c.156  
24 (C.34:1B-287), section 29 of P.L.2020, c.156 (C.34:1B-297),  
25 section 34 of P.L.2020, c.156 (C.34:1B-302), section 41 of  
26 P.L.2020, c.156 (C.34:1B-309), section 52 of P.L.2020, c.156  
27 (C.34:1B-320), section 67 of P.L.2020, c.156 (C.34:1B-335),  
28 section 79 of P.L.2020, c.156 (C.52:27D-520), section 88 of  
29 P.L.2020, c.156 (C.34:1B-354), and section 97 of P.L.2020, c.156  
30 (C.34:1B-361), or any other regulation specifically related to the  
31 recapture of economic development incentive award values, review  
32 and certify that the provisions of program rules or regulations  
33 provide the authority with adequate procedures to pursue the  
34 recapture of the value of an economic development incentive in the  
35 case of substantial noncompliance, fraud, or abuse by the economic  
36 development incentive recipient, and that program rules and  
37 regulations are sufficient to ensure against economic development  
38 incentive fraud, waste, and abuse; and

39 (5) refer, to the Economic Development Inspector General and  
40 to the Attorney General, information on suspected fraud or abuse  
41 identified by the Division of Portfolio Management and  
42 Compliance.

43 c. The Chief Compliance Officer, in consultation with the  
44 Department of Labor and Workforce Development and the  
45 Department of the Treasury, shall:

46 Develop, adopt, and implement a corrective action plan **【**, within  
47 one year of the effective date of sections 99 through 105 of

1 P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369) and**】** within  
2 six months of receiving notice of any program deficiency issued by  
3 the Economic Development Inspector General, that is designed to  
4 enable the authority to properly manage the economic development  
5 incentive programs administered by the authority **【**, and adopt rules  
6 and regulations concerning the administration and enforcement of  
7 the Division of Portfolio Management and Compliance's duties in a  
8 manner that is most compatible with ensuring against fraud and  
9 abuse in the State's economic development incentive programs**】**.

10 d. To ensure against economic development incentive fraud,  
11 waste, and abuse, the authority may recapture all or any portion of  
12 the value of an economic development incentive awarded pursuant  
13 to any of the authority's economic development incentive programs  
14 in the case of substantial noncompliance, fraud, or abuse by the  
15 economic development incentive recipient. The authority may  
16 incorporate provisions in the regulations for each economic  
17 development incentive program that the authority deems necessary  
18 to implement this subsection.

19 (cf: P.L.2020, c.156, s.101)

20

21 49. Section 102 of P.L.2020, c.156 (C.34:1B-366) is amended to  
22 read as follows:

23 102. a. There is established, in but not of the **【authority】**  
24 Department of the Treasury, the Office of the Economic  
25 Development Inspector General, which shall operate independent of  
26 the oversight or management of the Chief Executive Officer **【of】**  
27 and the authority. The Office of the Economic Development  
28 Inspector General shall operate under the Economic Development  
29 Inspector General, who shall be a retired member of the Judicial  
30 Branch of the State, to be appointed by the Governor with the  
31 advice and consent of the Senate for a term of four years. The  
32 Economic Development Inspector General shall direct the work of  
33 the Office of the Economic Development Inspector General and  
34 have the following general functions, duties, powers, and  
35 responsibilities:

36 (1) to appoint such deputies, directors, assistants, and other  
37 officers and employees as may be needed for the Office of the  
38 Economic Development Inspector General to meet its  
39 responsibilities, and to prescribe their duties and fix their  
40 compensation within the amounts appropriated therefor;

41 (2) to conduct and supervise State government activities relating  
42 to State economic development incentive integrity, fraud, and  
43 abuse;

44 (3) to call upon any department, office, division, or agency of  
45 State government to provide such information, resources, or other  
46 assistance as the Economic Development Inspector General deems  
47 necessary to discharge the duties and functions and to fulfill the

1 responsibilities of the Economic Development Inspector General  
2 under sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363  
3 through C.34:1B-369). Each department, office, division, and  
4 agency of this State shall cooperate with the Economic  
5 Development Inspector General and furnish the Office of the  
6 Economic Development Inspector General with the assistance  
7 necessary to accomplish the purposes of sections 99 through 105 of  
8 P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369);

9 (4) to coordinate activities to prevent, detect, and investigate  
10 economic development incentive fraud and abuse among the  
11 following: the authority, State and local government officials, and  
12 all economic development incentive applicants and recipients;

13 (5) to recommend and implement policies relating to economic  
14 development incentive integrity, fraud, and abuse, and monitor the  
15 implementation of any recommendations made by the Office of the  
16 Economic Development Inspector General to the authority for the  
17 administration of economic development incentives;

18 (6) to perform any other functions that are necessary or  
19 appropriate in furtherance of the mission of the Office of the  
20 Economic Development Inspector General; and

21 (7) to direct an economic development incentive applicant or  
22 recipient to cooperate with the Office of the Economic  
23 Development Inspector General and provide such information or  
24 assistance as shall be reasonably required by the Office of the  
25 Economic Development Inspector General.

26 b. As it relates to ensuring compliance with applicable  
27 economic development incentive standards and requirements,  
28 identifying and reducing fraud and abuse, and improving the  
29 efficiency and effectiveness of economic development incentives,  
30 the functions, duties, powers, and responsibilities of the Economic  
31 Development Inspector General shall include, but not be limited to,  
32 the following:

33 (1) to establish, in consultation with the authority and the  
34 Attorney General, guidelines under which the withholding of  
35 payments or exclusion from economic development incentive  
36 programs shall be imposed on an economic development incentive  
37 applicant or recipient;

38 (2) to review the utilization of economic development incentives  
39 to ensure that economic development incentive funds are  
40 appropriately spent to meet the goals and purposes of an individual  
41 economic development incentive program;

42 (3) to review and audit contracts, reports, documentation,  
43 claims, and all awards of economic development incentives to  
44 determine compliance with applicable laws, regulations, guidelines,  
45 and standards, and enhance program integrity;

46 (4) to consult with the authority to optimize the economic  
47 development incentive management information system in  
48 furtherance of the mission of the Office of the Economic

1 Development Inspector General. The authority shall consult with  
2 the Economic Development Inspector General on matters that  
3 concern the operation, upgrade, and implementation of the  
4 economic development incentive management information system;

5 (5) to coordinate the implementation of information technology  
6 relating to economic development incentive integrity, fraud, and  
7 abuse;

8 (6) to conduct educational programs for economic development  
9 incentive for State and local government officials and economic  
10 development incentive recipients designed to limit economic  
11 development incentive fraud and abuse; and

12 (7) to provide notice to the Chief Compliance Officer, appointed  
13 pursuant to section 101 of P.L.2020, c.156 (C.34:1B-365) if the  
14 Economic Development Inspector General determines that a  
15 program deficiency exists in an economic development incentive  
16 program administered by the authority and to provide notice to the  
17 Chief Executive Officer of the Authority of pending investigations  
18 if the Economic Development Inspector General determines that  
19 such disclosure is consistent with the public interest in maintaining  
20 the integrity of an economic development incentive program  
21 administered by the authority or to abate the continuation of fraud  
22 or abuse.

23 c. As it relates to investigating allegations of economic  
24 development incentive fraud and abuse and enforcing applicable  
25 laws, rules, regulations, and standards, the functions, duties,  
26 powers, and responsibilities of the Economic Development  
27 Inspector General shall include, but not be limited to, the following:

28 (1) to conduct economic development investigations concerning  
29 any acts of misconduct within economic development incentive  
30 programs;

31 (2) to provide information concerning the economic  
32 development investigations of the Office of the Economic  
33 Development Inspector General to the Attorney General, law  
34 enforcement authorities, and any prosecutor of competent  
35 jurisdiction, and endeavor to develop these economic development  
36 investigations in a manner that expedites and facilitates criminal  
37 prosecutions and the recovery of improperly expended economic  
38 development incentives, including the maintenance of detailed  
39 records for cases processed by the Economic Development  
40 Inspector General. The records shall include: information on the  
41 total number of cases processed and, for each case, the agency and  
42 division to which the case is referred for an economic development  
43 investigation; the date on which the case is referred; and the nature  
44 of the suspected fraud or abuse.

45 (3) to provide information and evidence relating to suspected  
46 criminal acts that the Economic Development Inspector General  
47 may obtain in carrying out its duties to law enforcement officials  
48 when appropriate, and to provide such information to the Attorney



1 General and county prosecutors in order to facilitate criminal  
2 economic development investigations and prosecutions;

3 (4) to refer complaints alleging criminal conduct to the Attorney  
4 General or other appropriate prosecutorial authority. The Economic  
5 Development Inspector General shall maintain a record of all  
6 matters referred to the Attorney General and shall be authorized to  
7 disclose information received, as appropriate and as may be  
8 necessary to resolve the matter referred, to the extent consistent  
9 with the public interest in disclosure, the need for protecting the  
10 confidentiality of complainants and informants, and preserving the  
11 confidentiality of ongoing criminal economic development  
12 investigations. Notwithstanding any referral made pursuant to this  
13 subsection, the Economic Development Inspector General may  
14 pursue any administrative or civil remedy under the law. A referral  
15 by the inspector general to the Attorney General or a prosecutorial  
16 authority shall in no way preclude the inspector general from  
17 performing its own separate, independent investigation; and

18 (5) in furtherance of an economic development investigation, to  
19 compel at a specific time and place, by subpoena, the appearance  
20 and sworn testimony of any person whom the Economic  
21 Development Inspector General reasonably believes may be able to  
22 give information relating to a matter subject to an economic  
23 development investigation:

24 (a) for this purpose, the Economic Development Inspector  
25 General is empowered to administer oaths and examine witnesses  
26 under oath, and compel any person to produce at a specific time and  
27 place, by subpoena, any documents, books, records, papers, objects,  
28 or other evidence that the Economic Development Inspector  
29 General reasonably believes may relate to a matter subject to an  
30 economic development investigation; and

31 (b) if any person to whom a subpoena is issued fails to appear  
32 or, having appeared, refuses to give testimony, or fails to produce  
33 the books, papers, or other documents required, the Economic  
34 Development Inspector General may apply to the Superior Court  
35 and the court may order the person to appear and give testimony or  
36 produce the books, papers, or other documents, as applicable. Any  
37 person failing to obey that order may be held by the court in  
38 contempt;

39 (6) subject to applicable State law, to have full and unrestricted  
40 access to all records, reports, audits, reviews, documents, papers,  
41 data, recommendations, tax information provided to the authority  
42 pursuant to subsection r. of R.S.54:50-9, or other material available  
43 to the authority and other State and local government agencies with  
44 respect to which the Office of the Economic Development Inspector  
45 General has responsibilities under sections 102 through 105 of  
46 P.L.2020, c.156 (C.34:1B-366 through C.34:1B-369);

47 (7) to solicit, receive, and investigate complaints related to  
48 economic development incentive integrity, fraud, and abuse; and

1 (8) to prepare cases, provide expert testimony, and support  
2 administrative hearings and other legal proceedings.

3 d. As it relates to recovering improperly obtained economic  
4 development incentives, imposing administrative sanctions,  
5 damages, or penalties, and negotiating settlements to assure that all  
6 governmental resources have been properly expended, the  
7 functions, duties, powers, and responsibilities of the Economic  
8 Development Inspector General shall include, but not be limited to,  
9 the following:

10 (1) to pursue civil and administrative enforcement actions  
11 against those who engage in fraud, abuse, or illegal acts perpetrated  
12 under economic development incentive programs. These civil and  
13 administrative enforcement actions shall include the imposition of  
14 administrative sanctions, penalties, suspension of fraudulent or  
15 illegal awards, and actions for civil recovery and seizure of property  
16 or other assets connected with such economic incentive awards;

17 (2) to initiate civil suits consistent with the provisions of  
18 sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through  
19 C.34:1B-369), maintain actions for civil recovery on behalf of the  
20 State, and enter into civil settlements;

21 (3) to require that the authority withhold payments to an  
22 economic development incentive applicant or recipient if the  
23 applicant or recipient unreasonably fails to produce complete and  
24 accurate records related to an economic development investigation  
25 that is initiated by the Office of the Economic Development  
26 Inspector General with reasonable cause; and

27 (4) to monitor and pursue the recoupment of economic  
28 development incentive awards or portions thereof, damages,  
29 penalties, and sanctions.

30 (cf: P.L.2020, c.156, s.102)

31

32 50. Section 106 of P.L.2020, c.156 (C.54:10A-5.47) is amended  
33 to read as follows:

34 106. a. For privilege periods ending in 2020, 2021, and 2022, a  
35 taxpayer, upon approval of an application to the authority, shall be  
36 allowed a credit against the tax imposed pursuant to section 5 of  
37 P.L.1945, c.162 (C.54:10A-5) in the amount of \$10,000 for each  
38 qualifying **new hire** full-time job involved in the manufacture of  
39 personal protective equipment in a qualified facility in which the  
40 taxpayer made a capital investment during the privilege period.

41 b. The minimum capital investment in a qualified facility  
42 required to be eligible for a credit under this section shall be as  
43 follows:

44 (1) for the rehabilitation, improvement, fit-out, or retrofit of an  
45 existing premises in Atlantic County, Burlington County, Cape May  
46 County, Cumberland County, Gloucester County, Ocean County, or  
47 Salem County, a minimum investment of \$10 per square foot of  
48 gross leasable area;

1 (2) for the rehabilitation, improvement, fit-out, or retrofit of an  
2 existing premises in counties in the State not listed in paragraph (1)  
3 of this subsection, a minimum investment of \$20 per square foot of  
4 gross leasable area;

5 (3) for the new construction of a premises in Atlantic County,  
6 Burlington County, Cape May County, Cumberland County,  
7 Gloucester County, Ocean County, or Salem County, a minimum  
8 investment of \$100 per square foot of gross leasable area; or

9 (4) for the new construction of a premises in counties in the  
10 State not listed in paragraph (3) of this subsection, a minimum  
11 investment of \$120 per square foot of gross leasable area.

12 c. The minimum number of new or retained qualifying full-  
13 time jobs required to be eligible for a credit under this section shall  
14 be as follows:

15 (1) for a qualified facility in Atlantic County, Burlington  
16 County, Cape May County, Cumberland County, Gloucester  
17 County, Ocean County, or Salem County, a minimum of five new or  
18 15 retained qualifying full-time jobs; or

19 (2) for a qualified facility in counties in the State not listed in  
20 paragraph (1) of this subsection, a minimum of ten new or 25  
21 retained qualifying full-time jobs.

22 d. In addition to the amount of credit allowed pursuant to  
23 subsection a. of this section, a taxpayer shall be allowed the  
24 following tax credits for privilege periods ending in 2020, 2021,  
25 and 2022:

26 (1) \$1,000 per qualifying full-time job in the privilege period at  
27 a qualified facility that is a building vacant for not less than seven  
28 years in need of rehabilitation with a minimum of 250,000 square  
29 feet;

30 (2) \$1,500 per qualifying full-time job in the privilege period at  
31 a qualified facility in which the manufacturing of personal  
32 protective equipment is part of a research collaboration between the  
33 taxpayer and a college or university located within the State; and

34 (3) \$1,000 per qualifying full-time job in the privilege period at  
35 a qualified facility in which the taxpayer has established an  
36 apprenticeship program or pre-apprenticeship program with a  
37 technical school or county college located within the State.

38 e. The total credit allowed to a taxpayer pursuant to this section  
39 during the privilege period shall not exceed \$500,000. A taxpayer  
40 shall not be eligible for a tax credit under this section for the same  
41 qualifying **new hire** full-time job for which the taxpayer is  
42 receiving a tax credit incentive award under the Emerge Program  
43 established by sections 68 through 81 of P.L.2020, c.156 (C.34:1B-  
44 336 et al.).

45 f. Notwithstanding the minimum tax schedule imposed  
46 pursuant to subsection (e) of section 5 of P.L.1945, c.162  
47 (C.54:10A-5), if the amount of the tax credit allowed exceeds the  
48 amount of corporation business tax otherwise due pursuant to

1 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess  
2 shall be treated as a refundable overpayment except that interest  
3 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-  
4 15.1) on the amount of overpayment attributable to this credit  
5 amount. The director shall determine the order of priority of the  
6 application of the credit allowed pursuant to this section and any  
7 other credits allowed by law.

8 g. The combined value of all tax credits approved by the  
9 authority and the director pursuant to this section and pursuant to  
10 section 2 of P.L.2020, c.156 (C.34:1B-270) shall not exceed  
11 \$10,000,000 in any State fiscal year to apply against the tax  
12 imposed pursuant to the "New Jersey Gross Income Tax Act,"  
13 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of  
14 P.L.1945, c.162 (C.54:10A-5).

15 h. An application for the tax credit shall be submitted to the  
16 authority in a form and manner prescribed by the chief executive  
17 officer of the authority. As a condition of receiving tax credits  
18 under this section, an applicant shall be required to commit to  
19 **[employ]** employing qualifying **[new hires]** full-time jobs for  
20 which tax credits are awarded under this section for a period of five  
21 years.

22 i. Notwithstanding any provision of the "Administrative  
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
24 contrary, the **[director]** chief executive officer of the authority is  
25 authorized to adopt immediately upon filing with the Office of  
26 Administrative Law such rules and regulations shall be effective for  
27 a period not to exceed 360 days following the date of filing and may  
28 thereafter be amended, adopted, or readopted by the chief executive  
29 officer of the authority in accordance with the requirements of  
30 P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer  
31 of the authority shall consult with the Commissioner of Health  
32 related to any specification requirements for what manufactured  
33 products are to qualify as personal protective equipment pursuant to  
34 this section.

35 j. As used in this section:

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

39 "Director" means Director of the Division of Taxation in the  
40 Department of the Treasury;

41 "Personal protective equipment" means coveralls, face shields,  
42 gloves, gowns, masks, respirators, safeguard equipment, and other  
43 equipment designed to protect the wearer from the spread of  
44 infection or illness as may be modified from time to time by the  
45 board of the authority.

46 "Qualified facility" means a facility that is:

47 (1) located in a redevelopment area or rehabilitation area as  
48 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

1 (2) located in a Smart Growth Area as identified by the Office  
2 of Planning Advocacy;

3 (3) a facility in which the manufacturing of personal protective  
4 equipment is part of a research collaboration between the taxpayer  
5 and a college or university located within the State;

6 (4) a facility in which the taxpayer has established an  
7 apprenticeship program or pre-apprenticeship program with a  
8 technical school or community located within the State; or

9 (5) a building vacant for not less than seven years in need of  
10 rehabilitation with a minimum of 250,000 square feet.

11 "Qualifying full-time job" means a full-time position in a  
12 business in this State which the business has filled with a full-time  
13 employee for the manufacturing of personal protective equipment in  
14 this State. The employee shall be employed for at least 35 hours a  
15 week and shall be paid employee wages at a rate of not less than  
16 \$15 per hour, or render any other standard of service generally  
17 accepted by custom or practice as full-time employment, whose  
18 wages are subject to withholding as provided in the "New Jersey  
19 Gross Income Tax Act," N.J.S.54A:1-1 et seq. and is paid employee  
20 wages at a rate of not less than \$15 per hour. **["Qualifying new  
21 hire"]** "Qualifying full-time job" shall not include any person who  
22 works as an independent contractor or on a consulting basis for the  
23 business. **["Qualifying new or retained job"]** "Qualifying full-time  
24 job" includes only a position for which the taxpayer provides  
25 employee health benefits under a health benefits plan authorized  
26 pursuant to State or federal law.

27 (cf: P.L.2020, c.156, s.106)

28

29 51. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to  
30 read as follows:

31 6. a. (1) A business, upon application to and approval from  
32 the authority, shall be awarded a credit of 100 percent of its capital  
33 investment, made after the effective date of P.L.2010, c.57 (C.48:3-  
34 87.1 et al.) but prior to its submission of documentation pursuant to  
35 subsection c. of this section, in a qualified wind energy facility  
36 located in the State, pursuant to the restrictions and requirements of  
37 this section. The award of a tax credit pursuant to this section shall  
38 be structured so that the **[authority]** award shall **[make]** consist of  
39 up to [four awards] five compliance years, each equaling **[25]** 20  
40 percent of the total value of the tax credit, to a qualified business  
41 over four privilege periods or taxable years in which the business  
42 meets the requirements for the minimum number of new, full-time  
43 employees. Otherwise eligible businesses with between 150 and  
44 300 new, full-time jobs may receive an award based on a prorated  
45 formula developed by the authority, provided that the prorated  
46 minimum number of new, full-time jobs required in the fifth year  
47 shall be the same as the fourth year. To be eligible for any tax

1 credits authorized under this section, a business shall demonstrate to  
2 the authority, at the time of application, that the State's financial  
3 support of the proposed capital investment in a qualified wind  
4 energy facility will yield a net positive benefit to the State. The  
5 value of all credits approved by the authority pursuant to this  
6 section **】**may be up to \$100,000,000, except as may be increased by  
7 the authority if the chief executive officer of the authority judges  
8 certain qualified offshore wind projects to be meritorious **】** shall not  
9 exceed the \$350,000,000 made available under section 98 of  
10 P.L.2020, c.156 (C.34:1B-362). Credits provided pursuant to this  
11 section shall not be applicable to the cap on the credits provided in  
12 section 3 of P.L.2007, c.346 (C.34:1B-209).

13 (2) (a) A business, other than a tenant eligible pursuant to  
14 subparagraph (b) of this paragraph, shall make or acquire capital  
15 investments totaling not less than \$50,000,000 in a qualified wind  
16 energy facility, at which the business, including tenants at the  
17 qualified wind energy facility, shall employ the minimum number  
18 of new, full-time employees, to be eligible for a credit under this  
19 section. A business that acquires a qualified wind energy facility  
20 after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall  
21 also be deemed to have acquired the capital investment made or  
22 acquired by the seller.

23 (b) A business that is a tenant in the qualified wind energy  
24 facility, the owner of which has made or acquired capital  
25 investments in the facility totaling more than \$50,000,000, shall  
26 occupy a leased area of the qualified wind energy facility that  
27 represents at least \$17,500,000 of the capital investment in the  
28 qualified wind energy facility at which the minimum number of  
29 new, full-time employees in the aggregate are employed, to be  
30 eligible for a credit under this section. The amount of capital  
31 investment in a facility that a leased area represents shall be equal  
32 to that percentage of the owner's total capital investment in the  
33 facility that the percentage of net leasable area leased by the tenant  
34 is of the total net leasable area of the qualified business facility.  
35 Capital investments made by a tenant shall be deemed to be  
36 included in the calculation of the capital investment made or  
37 acquired by the owner, but only to the extent necessary to meet the  
38 owner's minimum capital investment of \$50,000,000. Capital  
39 investments made by a tenant and not allocated to meet the owner's  
40 minimum capital investment threshold of \$50,000,000 shall be  
41 added to the amount of capital investment represented by the  
42 tenant's leased area in the qualified wind energy facility.

43 (c) The calculation of the number of new, full-time employees  
44 required pursuant to subparagraphs (a) and (b) of this paragraph  
45 may include the number of new, full-time positions resulting from  
46 an equipment supply coordination agreement with equipment  
47 manufacturers, suppliers, installers and operators associated with

1 the supply chain required to support the qualified wind energy  
2 facility.

3 For the purposes of this paragraph, "full time employee" shall  
4 not include an employee who is a resident of another state and  
5 whose income is not subject to the "New Jersey Gross Income Tax  
6 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a  
7 reciprocity agreement with the State of New Jersey.

8 (3) A business shall not be awarded a tax credit pursuant to this  
9 section if the business receives a business employment incentive  
10 grant pursuant to the "Business Employment Incentive Program  
11 Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating to the same  
12 capital and employees that qualify the business for this credit, or if  
13 the business receives assistance pursuant to the "Business Retention  
14 and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et  
15 seq.). A business that is awarded a tax credit under this section  
16 shall not be eligible for incentives authorized pursuant to the  
17 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
18 c.43 (C.52:27BBB-1 et al.).

19 (4) Full-time employment for an accounting or privilege period  
20 shall be determined as the average of the monthly full-time  
21 employment for the period.

22 b. A business shall apply for the credit by July 1, 2025, and a  
23 business shall submit its documentation for approval of its credit  
24 amount by July 1, 2028.

25 c. The credit awarded pursuant to this section shall be  
26 administered in accordance with the provisions of subsection c. of  
27 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of  
28 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to  
29 "qualified business facility" shall be deemed to refer to "qualified  
30 wind energy facility," as that term is defined in subsection f. of this  
31 section.

32 d. The amount of the credit awarded pursuant to this section  
33 shall, except as otherwise provided, be equal to the capital  
34 investment made by the business, or the capital investment  
35 represented by the business's leased area, and shall be taken over a  
36 five-year period, at the rate of one-fifth of the total amount of the  
37 business's credit for each tax accounting or privilege period of the  
38 business, beginning with the privilege period or taxable year in  
39 which the business is first approved by the authority as having met  
40 the investment capital and employment qualifications, subject to  
41 any disqualification as determined by annual review by the  
42 authority. In conducting its annual review, the authority may  
43 require a business to submit any information determined by the  
44 authority to be necessary and relevant to its review. The credit  
45 amount for any privilege period or taxable year ending after the date  
46 18 years after the effective date of P.L.2007, c.346 (C.34:1B-207 et  
47 seq.) during which the documentation of a business's credit amount  
48 remains unapproved shall be forfeited, although credit amounts for

1 the remainder of the years of the five-year credit period shall  
2 remain available. The amount of the credit awarded for a privilege  
3 period or taxable year to a business that is a tenant in a qualified  
4 wind energy facility shall not exceed the business's total lease  
5 payments for occupancy of the qualified wind energy facility for the  
6 privilege period or taxable year.

7 e. The authority shall adopt rules and regulations pursuant to  
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
9 seq.) as are necessary to implement this section, including, but not  
10 limited to: examples of and the determination of capital investment;  
11 the nature of businesses and employment positions constituting and  
12 participating in an equipment supply coordination agreement; a  
13 determination of the types of businesses that may be eligible and  
14 expenses that may constitute capital improvements; the  
15 promulgation of procedures and forms necessary to apply for a  
16 credit; and provisions for applicants to be charged an initial  
17 application fee, and ongoing service fees, to cover the  
18 administrative costs related to the credit.

19 The rules and regulations established by the authority pursuant to  
20 this subsection shall be effective immediately upon filing with the  
21 Office of Administrative Law and shall be effective for a period not  
22 to exceed 12 months and may, thereafter, be amended, adopted or  
23 readopted in accordance with the provisions of the "Administrative  
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

25 f. As used in this section: the terms "authority," "business,"  
26 and "capital investment" shall have the same meanings as defined in  
27 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,  
28 c.346 (C.34:1B-208), except that all references therein to "qualified  
29 business facility" shall be deemed to refer to "qualified wind energy  
30 facility" as defined in this subsection.

31 In addition, as used in this section:

32 "Equipment supply coordination agreement" means an agreement  
33 between a business and equipment manufacturer, supplier, installer,  
34 and operator that supports a qualified offshore wind project, or  
35 other wind energy project as determined by the authority, and that  
36 indicates the number of new, full-time jobs to be created by the  
37 agreement participants towards the employment requirement as set  
38 forth in paragraph (2) of subsection a. of this section.

39 "Minimum number of new, full-time employees" means:

40 (1) for the first **[award]** year, at least a cumulative 100 new,  
41 full-time employees compared to the number of full-time employees  
42 at the time of application;

43 (2) **[for the second award,]** for a privilege period or taxable  
44 year following the first **[award]** year, at least a cumulative 150  
45 new, full-time employees compared to the number of full-time  
46 employees at the time of application;



1 (3) **【for the third award,】** for a privilege period or taxable year  
2 following the second **【award】** year, at least a cumulative 200 new,  
3 full-time employees compared to the number of full-time employees  
4 at the time of application; and

5 (4) **【for the fourth award,】** for a privilege period or taxable year  
6 following the third **【award】** year and fourth year, at least a  
7 cumulative 300 new, full-time employees compared to the number  
8 of full-time employees at the time of application.

9 "Qualified offshore wind project" shall have the same meaning  
10 as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

11 "Qualified wind energy facility" means any building, complex of  
12 buildings, or structural components of buildings, including water  
13 access infrastructure, and all machinery and equipment used in the  
14 manufacturing, assembly, development or administration of  
15 component parts that support the development and operation of a  
16 qualified offshore wind project, or other wind energy project as  
17 determined by the authority.

18 (cf: P.L.2020, c.156, s.109)

19

20 52. Section 1 of P.L.1997, c.334 (C.34:1B-7.42a) is amended to  
21 read as follows:

22 1. a. The New Jersey Economic Development Authority shall  
23 establish within the New Jersey Emerging Technology and  
24 Biotechnology Financial Assistance Program established pursuant  
25 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business  
26 tax benefit certificate transfer program to allow new or expanding  
27 emerging technology and biotechnology companies in this State  
28 with unused amounts of research and development tax credits  
29 otherwise allowable which cannot be applied for the credit's tax  
30 year due to the limitations of subsection b. of section 1 of P.L.1993,  
31 c.175 (C.54:10A-5.24) and unused prior net operating loss  
32 conversion carryover or net operating loss carryover pursuant to  
33 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax  
34 benefits for use by other corporation business taxpayers in this  
35 State, provided that the taxpayer receiving the surrendered tax  
36 benefits is not affiliated with a corporation that is surrendering its  
37 tax benefits under the program established under P.L.1997, c.334.  
38 For the purposes of this section, the test of affiliation is whether the  
39 same entity directly or indirectly owns or controls five percent or  
40 more of the voting rights or five percent or more of the value of all  
41 classes of stock of both the taxpayer receiving the benefits and a  
42 corporation that is surrendering the benefits. The tax benefits may  
43 be used on the corporation business tax returns to be filed by those  
44 taxpayers in exchange for private financial assistance to be provided  
45 by the corporation business taxpayer that is the recipient of the  
46 corporation business tax benefit certificate to assist in the funding  
47 of costs incurred by the new or expanding emerging technology and  
48 biotechnology company. For purposes of this subsection, a member

1 of a combined group may sell prior net operating loss conversion  
2 carryover to other members of the combined group, if otherwise  
3 applicable and allowable under section 2 of P.L.1997, c.334  
4 (C.54:10A-4.2) and this section; provided, however, such sale of  
5 prior net operating loss conversion carryover shall be made at arm's  
6 length price at the same rate as though the sale was to an unrelated  
7 taxpayer.

8 b. The authority, in cooperation with the Division of Taxation  
9 in the Department of the Treasury, shall review and approve  
10 applications by new or expanding emerging technology and  
11 biotechnology companies in this State with unused but otherwise  
12 allowable carryover of research and development tax credits  
13 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and  
14 unused but otherwise allowable prior net operating loss conversion  
15 carryover or net operating loss carryover pursuant to section 4 of  
16 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in  
17 exchange for private financial assistance to be made by the  
18 corporation business taxpayer that is the recipient of the corporation  
19 business tax benefit certificate in an amount equal to at least **[80%]**  
20 80 percent of the amount of the surrendered tax benefit. Provided  
21 that the amount of the surrendered tax benefit for a surrendered  
22 research and development tax credit carryover is the amount of the  
23 credit, and provided that the amount of the surrendered tax benefit  
24 for a surrendered prior net operating loss conversion carryover or  
25 net operating loss carryover is that amount for the tax year in which  
26 the benefit is transferred and subsequently multiplied by the  
27 corporation business tax rate provided pursuant to subsection (c) of  
28 section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be  
29 authorized to approve the transfer of no more than \$75,000,000 of  
30 tax benefits in a State fiscal year. If the total amount of transferable  
31 tax benefits requested to be surrendered by approved applicants  
32 exceeds \$75,000,000 for a State fiscal year, the authority, in  
33 cooperation with the Division of Taxation in the Department of the  
34 Treasury, shall not be authorized to approve the transfer of more  
35 than \$75,000,000 for that State fiscal year and shall allocate the  
36 transfer of tax benefits by approved companies using the following  
37 method:

38 (1) an eligible applicant with \$250,000 or less of transferable  
39 tax benefits shall be authorized to surrender the entire amount of its  
40 transferable tax benefits;

41 (2) an eligible applicant with more than \$250,000 of transferable  
42 tax benefits shall be authorized to surrender a minimum of  
43 \$250,000 of its transferable tax benefits;

44 (3) (Deleted by amendment, P.L.2009, c.90.)

45 (4) an eligible applicant with more than \$250,000 shall also be  
46 authorized to surrender additional transferable tax benefits  
47 determined by multiplying the applicant's transferable tax benefits  
48 less the minimum transferable tax benefits that company is

1 authorized to surrender under paragraph (2) of this subsection by a  
2 fraction, the numerator of which is the total amount of transferable  
3 tax benefits that the authority is authorized to approve less the total  
4 amount of transferable tax benefits approved under paragraphs (1),  
5 (2), and (5) of this subsection and the denominator of which is the  
6 total amount of transferable tax benefits requested to be surrendered  
7 by all eligible applicants less the total amount of transferable tax  
8 benefits approved under paragraphs (1), (2), and (5) of this  
9 subsection;

10 (5) The authority shall establish the boundaries for three  
11 innovation zones to be geographically distributed in the northern,  
12 central, and southern portions of this State. Of the \$75,000,000 of  
13 transferable tax benefits authorized for each State fiscal year,  
14 ~~[\$10,000,000]~~ \$15,000,000 shall be allocated for the surrender of  
15 transferable tax benefits exclusively by new and expanding  
16 emerging technology and biotechnology companies that operate  
17 within the boundaries of the innovation zones or opportunity zones,  
18 or for new and expanding emerging technology and biotechnology  
19 companies that are certified as a woman- or minority-owned  
20 business at the time of program application, except that any portion  
21 of the ~~[\$10,000,000]~~ \$15,000,000 that is not so approved shall be  
22 available for that State fiscal year for the surrender of transferable  
23 tax benefits by new and expanding emerging technology and  
24 biotechnology companies that do not operate within the boundaries  
25 of an innovation zone or opportunity zone, or for a new and  
26 expanding emerging technology and biotechnology company that is  
27 certified as a woman- or minority-owned business at the time of  
28 program application.

29 If the total amount of transferable tax benefits that would be  
30 authorized using the above method exceeds \$75,000,000 for a State  
31 fiscal year, then the authority, in cooperation with the Division of  
32 Taxation in the Department of the Treasury, shall limit the total  
33 amount of tax benefits authorized to be transferred to \$75,000,000  
34 by applying the above method on an apportioned basis.

35 For purposes of this section transferable tax benefits include an  
36 eligible applicant's unused but otherwise allowable prior net  
37 operating loss conversion carryover or net operating loss carryover  
38 determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4)  
39 for the tax year in which the benefit is transferred and subsequently  
40 multiplied by the corporation business tax rate as provided in  
41 subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the  
42 total amount of the applicant's unused but otherwise allowable  
43 carryover of research and development tax credits. An eligible  
44 applicant's transferable tax benefits shall be limited to net operating  
45 losses and research and development tax credits that the applicant  
46 requests to surrender in its application to the authority and shall not,  
47 in total, exceed the maximum amount of tax benefits that the  
48 applicant is eligible to surrender.

1 No application for a corporation business tax benefit transfer  
2 certificate shall be approved in which the new or expanding  
3 emerging technology or biotechnology company (1) has  
4 demonstrated positive net operating income in any of the two  
5 previous full years of ongoing operations as determined on its  
6 financial statements issued according to generally accepted  
7 accounting standards endorsed by the Financial Accounting  
8 Standards Board; or (2) is directly or indirectly at least 50 percent  
9 owned or controlled by another corporation that has demonstrated  
10 positive net operating income in any of the two previous full years  
11 of ongoing operations as determined on its financial statements  
12 issued according to generally accepted accounting standards  
13 endorsed by the Financial Accounting Standards Board or is part of  
14 a consolidated group of affiliated corporations, as filed for federal  
15 income tax purposes, that in the aggregate has demonstrated  
16 positive net operating income in any of the two previous full years  
17 of ongoing operations as determined on its combined financial  
18 statements issued according to generally accepted accounting  
19 standards endorsed by the Financial Accounting Standards Board.

20 For purposes of this subsection, a member of a combined group  
21 may sell prior net operating loss conversion carryover to other  
22 members of the combined group, if otherwise applicable and  
23 allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and  
24 this section; provided, however, such sale of prior net operating loss  
25 conversion carryover shall be made at arm's length price at the same  
26 rate as though the sale was to an unrelated taxpayer.

27 The maximum lifetime value of surrendered tax benefits that a  
28 corporation shall be permitted to surrender pursuant to the program  
29 is \$20,000,000. Applications must be received on or before June 30  
30 of each State fiscal year.

31 The authority, in consultation with the Division of Taxation,  
32 shall establish rules for the recapture of all, or a portion of, the  
33 amount of a grant of a corporation business tax benefit certificate  
34 from the new or expanding emerging technology and biotechnology  
35 company having surrendered tax benefits pursuant to this section in  
36 the event the taxpayer fails to use the private financial assistance  
37 received for the surrender of tax benefits as required by this section  
38 or fails to maintain a headquarters or a base of operation in this  
39 State during the five years following receipt of the private financial  
40 assistance; except if the failure to maintain a headquarters or a base  
41 of operation in this State is due to the liquidation of the new or  
42 expanding emerging technology and biotechnology company.

43 c. The authority, in cooperation with the Division of Taxation  
44 in the Department of the Treasury, shall review and approve  
45 applications by taxpayers under the Corporation Business Tax Act  
46 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire  
47 surrendered tax benefits approved pursuant to subsection b. of this  
48 section which shall be issued in the form of corporation business

1 tax benefit transfer certificates, in exchange for private financial  
2 assistance to be made by the taxpayer in an amount equal to at least  
3 **【80%】 80 percent** of the amount of the surrendered tax benefit of an  
4 emerging technology or biotechnology company in the State. A  
5 corporation business tax benefit transfer certificate shall not be  
6 issued unless the applicant certifies that as of the date of the  
7 exchange of the corporation business tax benefit certificate it is  
8 operating as a new or expanding emerging technology or  
9 biotechnology company and has no current intention to cease  
10 operating as a new or expanding emerging technology or  
11 biotechnology company.

12 The managerial member of a combined group shall be the  
13 member that acquires a corporation business tax benefit certificate  
14 on behalf of the combined group for use on the combined return.

15 The private financial assistance shall assist in funding expenses  
16 incurred in connection with the operation of the new or expanding  
17 emerging technology or biotechnology company in the State,  
18 including but not limited to the expenses of fixed assets, such as the  
19 construction and acquisition and development of real estate,  
20 materials, start-up, tenant fit-out, working capital, salaries, research  
21 and development expenditures and any other expenses determined  
22 by the authority to be necessary to carry out the purposes of the  
23 New Jersey Emerging Technology and Biotechnology Financial  
24 Assistance Program.

25 The authority shall require a corporation business taxpayer that  
26 acquires a corporation business tax benefit certificate to enter into a  
27 written agreement with the new or expanding emerging technology  
28 or biotechnology company concerning the terms and conditions of  
29 the private financial assistance made in exchange for the certificate.  
30 The written agreement may contain terms concerning the  
31 maintenance by the new or expanding emerging technology or  
32 biotechnology company of a headquarters or a base of operation in  
33 this State.

34 d. (Deleted by amendment, P.L.2009, c.90.)  
35 (cf: P.L.2020, c.156, s.113)

36  
37 53. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to  
38 read as follows:

39 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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

43 "Biotechnology" means the continually expanding body of  
44 fundamental knowledge about the functioning of biological systems  
45 from the macro level to the molecular and sub-atomic levels, as  
46 well as novel products, services, technologies and sub-technologies  
47 developed as a result of insights gained from research advances that  
48 add to that body of fundamental knowledge. This definition may be

1 modified by regulation to conform to definitions in other programs  
2 administered by the authority.

3 "Biotechnology company" means an emerging corporation that  
4 has its headquarters or base of operations in this State; that owns,  
5 has filed for, or has a valid license to use protected, proprietary  
6 intellectual property; and that is engaged in the research,  
7 development, production, or provision of biotechnology for the  
8 purpose of developing or providing products or processes for  
9 specific commercial or public purposes, including but not limited  
10 to, medical, pharmaceutical, nutritional, and other health-related  
11 purposes, agricultural purposes, and environmental purposes. This  
12 definition may be modified by regulation to conform to definitions  
13 in other programs administered by the authority.

14 "Full-time employee" means a person employed by a new or  
15 expanding emerging technology or biotechnology company for  
16 consideration for at least 35 hours a week, or who renders any other  
17 standard of service generally accepted by custom or practice as full-  
18 time employment and whose wages are subject to withholding as  
19 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
20 et seq., or who is a partner of a new or expanding emerging  
21 technology or biotechnology company who works for the  
22 partnership for at least 35 hours a week, or who renders any other  
23 standard of service generally accepted by custom or practice as full-  
24 time employment, and whose distributive share of income, gain,  
25 loss, or deduction, or whose guaranteed payments, or any  
26 combination thereof, is subject to the payment of estimated taxes, as  
27 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
28 et seq. To qualify as a "full-time employee," an employee shall also  
29 receive from the new or expanding emerging technology or  
30 biotechnology company health benefits under a health benefits plan  
31 authorized pursuant to State or federal law. "Full-time employee"  
32 shall not include any person who works as an independent  
33 contractor or on a consulting basis for the new or expanding  
34 emerging technology or biotechnology company.

35 "New or expanding" means a technology or biotechnology  
36 company that (1) on June 30 of the year in which the company files  
37 an application for surrender of unused but otherwise allowable tax  
38 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the  
39 date of the exchange of the corporation business tax benefit  
40 certificate, has fewer than 225 employees in the United States of  
41 America; (2) on June 30 of the year in which the company files  
42 such an application, has at least one full-time employee working in  
43 this State if the company has been incorporated for less than three  
44 years, has at least five full-time employees working in this State if  
45 the company has been incorporated for more than three years but  
46 less than five years, and has at least 10 full-time employees working  
47 in this State if the company has been incorporated for more than  
48 five years; and (3) on the date of the exchange of the corporation

1 business tax benefit certificate, the company has the requisite  
2 number of full-time employees in New Jersey that were required on  
3 June 30 as set forth in part (2) of this definition.

4 “Opportunity zone” means a federal population census tract in  
5 this State that was eligible to be designated as a qualified  
6 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

7 "Technology company" means an emerging corporation that has  
8 its headquarters or base of operations in this State; that owns, has  
9 filed for, or has a valid license to use protected, proprietary  
10 intellectual property; and that employs some combination of the  
11 following: highly educated or trained managers and workers, or  
12 both, employed in this State who use sophisticated scientific  
13 research service or production equipment, processes or knowledge  
14 to discover, develop, test, transfer or manufacture a product or  
15 service. This definition may be modified by regulation to conform  
16 to definitions in other programs administered by the authority.

17 (cf: P.L.2020, c.156, s.114)

18

19 54. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to  
20 read as follows:

21 5. a. The New Jersey Economic Development Authority, in  
22 consultation with the State Treasurer, shall establish an Economic  
23 Redevelopment and Growth Grant program for the purpose of  
24 encouraging redevelopment projects in qualifying economic  
25 redevelopment and growth grant incentive areas that do not qualify  
26 as such areas solely by virtue of being a transit village, through the  
27 provision of incentive grants to reimburse developers for certain  
28 project financing gap costs.

29 b. (1) A developer shall submit an application for a State  
30 incentive grant prior to July 1, 2019, except: (a) a developer of a  
31 qualified residential project or a mixed use parking project seeking  
32 an award of credits toward the funding of its incentive grant for a  
33 project restricted under category (viii) of subparagraph (b) of  
34 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90  
35 (C.52:27D-489f) shall submit an incentive grant application prior to  
36 December 31, 2021 **【and】** ; (b) a developer of a qualified  
37 residential project seeking an award of credits toward the funding of  
38 its incentive grant under **【subparagraphs (f) and】** subparagraph (g)  
39 of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90  
40 (C.52:27D-489f) shall submit an incentive grant application prior to  
41 December 31, 2021; and (c) a developer of a commercial project  
42 seeking a State incentive grant under subparagraph (b) of paragraph  
43 (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)  
44 shall submit an incentive grant application prior to December 31,  
45 2021. A developer that submits an application for a State incentive  
46 grant shall indicate on the application whether it is also applying for  
47 a local incentive grant. Tax credits awarded to developers who  
48 apply after the effective date of P.L.2020, c.156 (C.34:1B-269 et

1 al.) under **【subparagraphs (f) and】** subparagraph (g) of paragraph  
2 (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)  
3 shall not exceed **【\$200,000,000** subject to the limitations of  
4 **subparagraphs (f) and (g) of that paragraph】** \$125,000,000.  
5 Incentive grants awarded to developers who apply after the  
6 effective date of P.L.2020, c.156 under subparagraph (b) of  
7 paragraph (1) of subsection b. of section 6 of P.L.2009, c.90  
8 (C.52:27D-489f) shall not exceed \$75,000,000.

9 (2) When an applicant indicates it is also applying for a local  
10 incentive grant, the authority shall forward a copy of the application  
11 to the municipality wherein the redevelopment project is to be  
12 located for approval by municipal ordinance.

13 c. An application for a State incentive grant shall be reviewed  
14 and approved by the authority. The authority shall not approve an  
15 application for a State incentive grant unless the application was  
16 submitted prior to July 1, 2019, except: (1) the authority shall not  
17 approve an application for a State incentive grant by a developer of  
18 a qualified residential project or a mixed use parking project  
19 seeking an award of credits toward the funding of its incentive grant  
20 for a project restricted under category (viii) of subparagraph (b) of  
21 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90  
22 (C.52:27D-489f) unless the application was submitted prior to  
23 December 31, 2021 and (2) the authority shall not approve an  
24 application for a State incentive grant by a developer under  
25 **【subparagraphs (f) and】** subparagraph (g) of paragraph (3) and  
26 subparagraph (b) of paragraph (1) of subsection b. of section 6 of  
27 P.L.2009, c.90 (C.52:27D-489f) unless the application was  
28 submitted prior to December 31, 2021.

29 d. A developer shall not be required to purchase pinelands  
30 development credits under the "Pinelands Protection Act,"  
31 P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive  
32 management plan, or any other rule or regulation adopted pursuant  
33 to that act in connection with any approval or relief obtained related  
34 to a redevelopment project located in an aviation district on or after  
35 the effective date of P.L.2018, c.120, except if seeking to develop in  
36 permanently protected open space pursuant to the Pinelands  
37 Protection Act. The provisions of this subsection shall not apply to  
38 a developer of a qualified residential project.

39 (cf: P.L.2020, c.156, s.122)

40

41 55. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to  
42 read as follows:

43 6. a. Up to the limits established in subsection b. of this  
44 section and in accordance with a redevelopment incentive grant  
45 agreement, beginning upon the receipt of occupancy permits for any  
46 portion of the redevelopment project, or upon any other event  
47 evidencing project completion as set forth in the incentive grant  
48 agreement, the State Treasurer shall pay to the developer



1 incremental State revenues directly realized from businesses  
2 operating at the site of the redevelopment project from the  
3 following taxes: the Corporation Business Tax Act (1945),  
4 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine  
5 insurance companies pursuant to R.S.54:16-1 et seq., the tax  
6 imposed on insurers generally, pursuant to P.L.1945, c.132  
7 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities  
8 gross receipts tax and public utility excise tax imposed on sewerage  
9 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et  
10 seq.), those tariffs and charges imposed by electric, natural gas,  
11 telecommunications, water and sewage utilities, and cable television  
12 companies under the jurisdiction of the New Jersey Board of Public  
13 Utilities, or comparable entity, except for those tariffs, fees, or taxes  
14 related to societal benefits charges assessed pursuant to section 12  
15 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance  
16 with the "Global Warming Response Act," P.L.2007, c.112  
17 (C.26:2C-37 et seq.), transitional energy facility assessment unit  
18 taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34),  
19 and the sales and use taxes on public utility and cable television  
20 services and commodities, the tax derived from net profits from  
21 business, a distributive share of partnership income, or a pro rata  
22 share of S corporation income under the "New Jersey Gross Income  
23 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at  
24 the site of a redevelopment project that is required to collect the tax  
25 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-  
26 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1  
27 et seq.) from the purchase of furniture, fixtures and equipment, or  
28 materials for the remediation, the construction of new structures at  
29 the site of a redevelopment project, the hotel and motel occupancy  
30 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),  
31 or the portion of the fee imposed pursuant to section 3 of P.L.1968,  
32 c.49 (C.46:15-7) derived from the sale of real property at the site of  
33 the redevelopment project and paid to the State Treasurer for use by  
34 the State, that is not credited to the "Shore Protection Fund" or the  
35 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New  
36 Jersey Affordable Housing Trust Fund") pursuant to section 4 of  
37 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to  
38 assign their ability to apply for the tax credit under this subsection  
39 to a non-profit organization with a mission dedicated to attracting  
40 investment and completing development and redevelopment  
41 projects in a Garden State Growth Zone. The non-profit  
42 organization may make an application on behalf of a developer  
43 which meets the requirements for the tax credit, or a group of non-  
44 qualifying developers, such that these will be considered a unified  
45 project for the purposes of the incentives provided under this  
46 section.

47 b. (1) (a) Up to an average of 75 percent of the projected  
48 annual incremental revenues or 85 percent of the projected annual

1 incremental revenues in a Garden State Growth Zone may be  
2 pledged towards the State portion of an incentive grant.

3 (b) State incentive grants not to exceed an aggregate total value  
4 of \$75,000,000 shall be made available by the authority for  
5 applications submitted after the effective date of P.L.2020, c.156,  
6 but prior to December 31, 2021, for projects that are predominantly  
7 commercial and contain 100,000 or more square feet of office and  
8 retail space, or industrial space for purchase or lease, and may  
9 include a parking component. The developer of a project seeking  
10 an award of credits for a project restricted under this subparagraph  
11 shall submit an incentive grant application prior to December 31,  
12 2021, and if approved after the effective date of P.L.2020, c.156,  
13 shall submit a temporary certificate of occupancy for the project no  
14 later than December 31, 2024. In addition to the requirements for  
15 an incentive award set forth in P.L.2009, c.90 (C.52:27D-489a et  
16 al.), a developer shall be eligible to receive an award of credits for a  
17 project restricted under this subparagraph only if the developer  
18 demonstrates to the authority at that time of application that: (i) the  
19 project shall comply with minimum environmental and  
20 sustainability standards; (ii) the project shall comply with the  
21 authority's affirmative action requirements, adopted pursuant to  
22 section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker  
23 employed by the developer, or subcontractor of a developer  
24 working at the project, shall be paid not less than \$15 per hour or  
25 120 percent of the minimum wage fixed under subsection a. of  
26 section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;  
27 and (iv) during the eligibility period, each worker employed to  
28 perform construction work or building services work at the project  
29 shall be paid not less than the prevailing wage rate for the worker's  
30 craft or trade, as determined by the Commissioner of Labor and  
31 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-  
32 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

33 (2) In the case of a qualified residential project or a project  
34 involving university infrastructure, if the authority determines that  
35 the estimated amount of incremental revenues pledged towards the  
36 State portion of an incentive grant is inadequate to fully fund the  
37 amount of the State portion of the incentive grant, then in lieu of an  
38 incentive grant based on the incremental revenues, the developer  
39 shall be awarded tax credits equal to the full amount of the  
40 incentive grant.

41 (3) In the case of a mixed use parking project, if the authority  
42 determines that the estimated amount of incremental revenues  
43 pledged towards the State portion of an incentive grant is  
44 inadequate to fully fund the amount of the State portion of the  
45 incentive grant, then, in lieu of an incentive grant based on the  
46 incremental revenues, the developer shall be awarded tax credits  
47 equal to the full amount of the incentive grant.

1 The value of all credits approved by the authority pursuant to  
2 paragraphs (2) and (3) of this subsection shall not exceed  
3 **【\$1,043,000,000】** \$968,000,000, of which:

4 (a) \$250,000,000 shall be restricted to qualified residential  
5 projects within Atlantic, Burlington, Camden, Cape May,  
6 Cumberland, Gloucester, Ocean, and Salem counties, of which  
7 \$175,000,000 of the credits shall be restricted to the following  
8 categories of projects: (i) qualified residential projects located in a  
9 Garden State Growth Zone located within the aforementioned  
10 counties; and (ii) mixed use parking projects located in a Garden  
11 State Growth Zone or urban transit hub located within the  
12 aforementioned counties; (iii) and \$75,000,000 of the credits shall  
13 be restricted to qualified residential projects in municipalities with a  
14 2007 Municipal Revitalization Index of 400 or higher as of the date  
15 of enactment of the "New Jersey Economic Opportunity Act of  
16 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within  
17 the aforementioned counties;

18 (b) **【\$395,000,000】** \$415,000,000 shall be restricted to the  
19 following categories of projects: (i) qualified residential projects  
20 located in urban transit hubs that are commuter rail in nature that  
21 otherwise do not qualify under subparagraph (a) of this paragraph;  
22 (ii) qualified residential projects located in Garden State Growth  
23 Zones that do not qualify under subparagraph (a) of this paragraph;  
24 (iii) mixed use parking projects located in urban transit hubs or  
25 Garden State Growth Zones that do not qualify under subparagraph  
26 (a) of this paragraph, provided however, an urban transit hub shall  
27 be allocated no more than \$25,000,000 for mixed use parking  
28 projects; (iv) qualified residential projects which are disaster  
29 recovery projects that otherwise do not qualify under subparagraph  
30 (a) of this paragraph; (v) qualified residential projects in SDA  
31 municipalities located in Hudson County that were awarded State  
32 Aid in State Fiscal Year 2013 through the Transitional Aid to  
33 Localities program and otherwise do not qualify under  
34 subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits shall  
35 be restricted to mixed use parking projects in Garden State Growth  
36 Zones which have a population in excess of 125,000 and do not  
37 qualify under subparagraph (a) of this paragraph; (vii) \$40,000,000  
38 of credits shall be restricted to qualified residential projects that  
39 include a theater venue for the performing arts and do not qualify  
40 under subparagraph (a) of this paragraph, which projects are located  
41 in a municipality with a population of less than 100,000 according  
42 to the latest federal decennial census, and within which  
43 municipality is located an urban transit hub and a campus of a  
44 public research university, as defined in section 1 of P.L.2009,  
45 c.308 (C.18A:3B-46); and (viii) \$125,000,000 of credits shall be  
46 restricted to qualified residential projects and mixed use parking  
47 projects in Garden State Growth Zones having a population in

1 excess of 125,000 and do not qualify under subparagraph (a) of this  
2 paragraph;

3 (c) \$87,000,000 shall be restricted to the following categories of  
4 projects: (i) qualified residential projects located in distressed  
5 municipalities, deep poverty pockets, highlands development credit  
6 receiving areas or redevelopment areas, otherwise not qualifying  
7 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed  
8 use parking projects that do not qualify under subparagraph (a) or  
9 (b) of this paragraph, and which are used by an independent  
10 institution of higher education, a school of medicine, a nonprofit  
11 hospital system, or any combination thereof; provided, however,  
12 that \$20,000,000 of the \$87,000,000 shall be allocated to mixed use  
13 parking projects that do not qualify under subparagraph (a) or (b) of  
14 this paragraph;

15 (d) (i) \$16,000,000 shall be restricted to qualified residential  
16 projects that are located within a qualifying economic  
17 redevelopment and growth grant incentive area otherwise not  
18 qualifying under subparagraph (a), (b), or (c) of this paragraph; and

19 (ii) an additional \$50,000,000 shall be restricted to qualified  
20 residential projects which, as of the effective date of P.L.2016, c.51,  
21 are located in a city of the first class with a population in excess of  
22 270,000, are subject to a Renewal Contract for a Section 8 Mark-  
23 Up-To-Market Project from the United States Department of  
24 Housing and Urban Development, and for which an application for  
25 the award of tax credits under this subsection was submitted prior to  
26 January 1, 2016;

27 (e) \$25,000,000 shall be restricted to projects involving  
28 university infrastructure; and

29 (f) **【\$150,000,000** shall be restricted to applications submitted  
30 after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for  
31 projects which are predominantly commercial and contain 100,000  
32 or more square feet of office and retail space, or industrial space for  
33 purchase or lease and may include a parking component; **and】**  
34 (Deleted by amendment, P.L. , c. ) (pending before the  
35 Legislature as this bill)

36 (g) **【\$50,000,000】** \$125,000,000 shall be restricted to  
37 applications submitted after the effective date of P.L.2020, c.156  
38 (C.34:1B-269 et al.) for residential projects in any county of the  
39 State.

40 (h) For subparagraphs (a) through (d) of this paragraph, not  
41 more than \$40,000,000 of credits shall be awarded to any qualified  
42 residential project in a deep poverty pocket or distressed  
43 municipality and not more than \$20,000,000 of credits shall be  
44 awarded to any other qualified residential project. The developer of  
45 a qualified residential project seeking an award of credits towards  
46 the funding of its incentive grant shall submit an incentive grant  
47 application prior to July 1, 2016 and if approved after September  
48 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et

1 al.) shall submit a temporary certificate of occupancy for the project  
2 no later than December 31, 2023. The developer of a mixed use  
3 parking project seeking an award of credits towards the funding of  
4 its incentive grant pursuant to subparagraph (c) of this paragraph  
5 and if approved after the effective date of P.L.2015, c.217, shall  
6 submit a temporary certificate of occupancy for the project no later  
7 than December 31, 2023. The developer of a qualified residential  
8 project or a mixed use parking project seeking an award of credits  
9 toward the funding of its incentive grant for a project restricted  
10 under categories (vi) and (viii) of subparagraph (b) of this  
11 paragraph shall submit an incentive grant application prior to July  
12 1, 2019 or, in the case of a project restricted under category (viii) of  
13 subparagraph (b) of this paragraph, December 31, 2021, and if  
14 approved after the effective date of P.L.2017, c.59, shall submit a  
15 temporary certificate of occupancy for the project no later than  
16 December 31, 2023 provided that the municipality in which the  
17 project is located shall have submitted to the chief executive officer  
18 of the authority a letter of support identifying up to six projects  
19 prior to July 1, 2018. The letter of support is to contain a project  
20 scope for each of the projects and may be supplemented or amended  
21 from time to time until July 1, 2019 or, in the case of a project  
22 restricted under category (viii) of subparagraph (b) of this  
23 paragraph, December 31, 2021. Applications for tax credits  
24 pursuant to this subsection relating to an ancillary infrastructure  
25 project or infrastructure improvement in the public right-of-way, or  
26 both, shall be accompanied with a letter of support relating to the  
27 project or improvement by the governing body or agency in which  
28 the project is located. Credits awarded to a developer pursuant to  
29 this subsection shall be subject to the same financial and related  
30 analysis by the authority, the same term of the grant, and the same  
31 mechanism for administering the credits, and shall be utilized or  
32 transferred by the developer as if the credits had been awarded to  
33 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-  
34 209.3) for qualified residential projects thereunder. No portion of  
35 the revenues pledged pursuant to the "New Jersey Economic  
36 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)  
37 shall be subject to withholding or retainage for adjustment, in the  
38 event the developer or taxpayer waives its rights to claim a refund  
39 thereof.

40 (i) The developer of a project seeking an award of credits for a  
41 project restricted under **【subparagraphs (f) and】** subparagraph (g)  
42 of this paragraph shall submit an incentive grant application prior to  
43 December 31, 2021, and if approved after the effective date of  
44 P.L.2020, c.156 (C.34:1B-269 et al.), shall submit a temporary  
45 certificate of occupancy for the project no later than December 31,  
46 2024. In addition to the requirements for an award of credits set  
47 forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be  
48 eligible to receive an award of credits for a project restricted under

1 **【subparagraphs (f) and】** subparagraph (g) of this paragraph only if  
2 the developer demonstrates to the authority at that time of  
3 application that: (i) the project shall comply with minimum  
4 environmental and sustainability standards; (ii) the project shall  
5 comply with the authority's affirmative action requirements,  
6 adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii)  
7 each worker employed by the developer or subcontractor of a  
8 developer working at the project shall be paid not less than \$15 per  
9 hour or 120 percent of the minimum wage fixed under subsection a.  
10 of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is  
11 higher; and (iv) during the eligibility period, each worker employed  
12 to perform construction work or building services work at the  
13 project shall be paid not less than the prevailing wage rate for the  
14 worker's craft or trade, as determined by the Commissioner of  
15 Labor and Workforce Development pursuant to P.L.1963, c.150  
16 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

17 Prior to the board considering an application submitted by a  
18 developer for a project restricted under **【subparagraphs (f) and】**  
19 subparagraph (g) of this paragraph, the authority shall confirm with  
20 the Department of Labor and Workforce Development, the  
21 Department of Environmental Protection, and the Department of the  
22 Treasury **【shall each report to the chief executive officer of the**  
23 **authority】** whether the developer is in substantial good standing  
24 with the respective department, or has entered into an agreement  
25 with the respective department that includes a practical corrective  
26 action plan for the developer. The developer, or an authorized  
27 agent of the developer, shall certify to the authority that all factual  
28 assertions made in the developer's application are true under the  
29 penalty of perjury. If at any time the authority determines that the  
30 developer made a material misrepresentation on the developer's  
31 application, the developer shall forfeit the award of credits and the  
32 authority shall recapture any tax credits awarded to the developer.

33 (4) A developer may apply to the Director of the Division of  
34 Taxation in the Department of the Treasury and the chief executive  
35 officer of the authority for a tax credit transfer certificate, if the  
36 developer is awarded a tax credit pursuant to paragraph (2) or  
37 paragraph (3) of this subsection, covering one or more years, in lieu  
38 of the developer being allowed any amount of the credit against the  
39 tax liability of the developer. The tax credit transfer certificate,  
40 upon receipt thereof by the developer from the director and the  
41 chief executive officer of the authority, may be sold or assigned, in  
42 full or in part, to any other person who may have a tax liability  
43 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2  
44 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1  
45 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate  
46 provided to the developer shall include a statement waiving the  
47 developer's right to claim that amount of the credit against the taxes  
48 that the developer has elected to sell or assign. The sale or

1 assignment of any amount of a tax credit transfer certificate allowed  
2 under this paragraph shall not be exchanged for consideration  
3 received by the developer of less than 75 percent of the transferred  
4 credit amount before considering any further discounting to present  
5 value that may be permitted. Any amount of a tax credit transfer  
6 certificate used by a purchaser or assignee against a tax liability  
7 shall be subject to the same limitations and conditions that apply to  
8 the use of the credit by the developer who originally applied for and  
9 was allowed the credit.

10 c. All administrative costs associated with the incentive grant  
11 shall be assessed to the applicant and be retained by the State  
12 Treasurer from the annual incentive grant payments.

13 d. The incremental revenue for the revenues listed in  
14 subsection a. of this section shall be calculated as the difference  
15 between the amount collected in any fiscal year from any eligible  
16 revenue source included in the State redevelopment incentive grant  
17 agreement, less the revenue increment base for that eligible  
18 revenue.

19 e. The municipality is authorized to collect any information  
20 necessary to facilitate grants under this program and remit that  
21 information in order to assist in the calculation of incremental  
22 revenue.

23 (cf: P.L.2020, c.156, s.123)

24

25 56. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to  
26 read as follows:

27 8. a. (1) The authority, in consultation with the State  
28 Treasurer, shall promulgate an incentive grant application form and  
29 procedure for the Economic Redevelopment and Growth Grant  
30 program.

31 (2) (a) The Local Finance Board, in consultation with the  
32 authority, shall develop a minimum standard incentive grant  
33 application form for municipal Economic Redevelopment and  
34 Growth Grant programs.

35 (b) Through regulation, the authority shall establish standards  
36 for redevelopment projects seeking State or local incentive grants  
37 based on the green building manual prepared by the Commissioner  
38 of Community Affairs pursuant to section 1 of P.L.2007, c.132  
39 (C.52:27D-130.6), regarding the use of renewable energy, energy-  
40 efficient technology, and non-renewable resources in order to  
41 reduce environmental degradation and encourage long-term cost  
42 reduction.

43 b. Within each incentive grant application, a developer shall  
44 certify information concerning:

45 (1) the status of control of the entire redevelopment project site;

46 (2) all required State and federal government permits that have  
47 been issued for the redevelopment project, or will be issued pending  
48 resolution of financing issues;

1 (3) local planning and zoning board approvals, as required, for  
2 the redevelopment project;

3 (4) estimates of the revenue increment base, the eligible  
4 revenues for the project, and the assumptions upon which those  
5 estimates are made.

6 c. (1) With regard to State tax revenues proposed to be  
7 pledged for an incentive grant the authority and the State Treasurer  
8 shall review the project costs, evaluate and validate the project  
9 financing gap estimated by the developer, and conduct a State fiscal  
10 impact analysis to ensure that the overall public assistance provided  
11 to the project, except with regards to a qualified residential project,  
12 a mixed use parking project, or a project involving university  
13 infrastructure, will result in net benefits to the State including,  
14 without limitation, both direct and indirect economic benefits and  
15 non-financial community revitalization objectives, including but not  
16 limited to, the promotion of the use of public transportation in the  
17 case of the ancillary infrastructure project portion of any transit  
18 project.

19 (2) With regard to local incremental revenues proposed to be  
20 pledged for an incentive grant the authority and the Local Finance  
21 Board shall review the project costs, and except with respect to an  
22 application by a municipal redeveloper, evaluate and validate the  
23 project financing gap projected by the developer, and conduct a  
24 local fiscal impact analysis to ensure that the overall public  
25 assistance provided to the project, except with regards to a qualified  
26 residential project, a mixed use parking project, or a project  
27 involving university infrastructure, will result in net benefits to the  
28 municipality wherein the redevelopment project is located  
29 including, without limitation, both direct and indirect economic  
30 benefits and non-financial community revitalization objectives,  
31 including but not limited to, the promotion of the use of public  
32 transportation in the case of the ancillary infrastructure project  
33 portion of any transit project.

34 (3) The authority, State Treasurer, and Local Finance Board  
35 may act cooperatively to administer and review applications, and  
36 shall consult with the Office of State Planning on matters  
37 concerning State, regional, and local development and planning  
38 strategies.

39 (4) The costs of the aforementioned reviews shall be assessed to  
40 the applicant as an application fee, except for applications  
41 submitted on or after January 1, 2018, but before June 30, **[2018]**  
42 2019, which are amended after the effective date of P.L.2020, c.156  
43 (C.34:1B-269 et al.), the authority may waive fees.

44 (5) A developer who has already applied for an incentive grant  
45 award prior to the effective date of the "New Jersey Economic  
46 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),  
47 but who has not yet been approved for the grant, or has not  
48 executed an agreement with the authority, may proceed under that



1 application or seek to amend the application or reapply for an  
2 incentive grant award for the same project or any part thereof for  
3 the purpose of availing himself or herself of any more favorable  
4 provisions of the Economic Redevelopment and Growth Grant  
5 program established pursuant to the "New Jersey Economic  
6 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),  
7 except that projects with costs exceeding \$200,000,000 shall not be  
8 eligible for revised percentage caps under subsection d. of section  
9 19 of P.L.2013, c.161 (C.52:27D-489i).  
10 (cf: P.L.2020, c.156, s.124)  
11

12 57. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to  
13 read as follows:

14 6. a. (1) The combined value of all credits approved by the  
15 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and  
16 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013  
17 shall not exceed \$1,750,000,000, except as may be increased by the  
18 authority as set forth in paragraph (5) of subsection a. of section 35  
19 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the  
20 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161  
21 (C.52:27D-489p et al.), there shall be no monetary cap on the value  
22 of credits approved by the authority attributable to the program  
23 pursuant to the "New Jersey Economic Opportunity Act of 2013,"  
24 P.L.2013, c.161 (C.52:27D-489p et al.).

25 (2) (Deleted by amendment, P.L.2013, c.161)

26 (3) (Deleted by amendment, P.L.2013, c.161)

27 (4) (Deleted by amendment, P.L.2013, c.161)

28 (5) (Deleted by amendment, P.L.2013, c.161)

29 b. (1) A business shall submit an application for tax credits  
30 prior to July 1, 2019. The authority shall not approve an application  
31 for tax credits unless the application was submitted prior to July 1,  
32 2019.

33 (2) (a) A business shall submit its documentation indicating  
34 that it has met the capital investment and employment requirements  
35 and all conditions of approvals specified in the incentive agreement  
36 for certification of its tax credit amount, to the authority's  
37 satisfaction, within three years following the date of approval of its  
38 application by the authority. The authority shall have the discretion  
39 to grant two six-month extensions of this deadline. If the authority  
40 accepts the documentation, the authority shall request that the  
41 Division of Taxation in the Department of the Treasury issue a tax  
42 credit based on the approved documentation to be used by the  
43 business during the eligibility period. Except as provided in  
44 subparagraphs (b) and (c) of this paragraph, in no event shall the  
45 incentive effective date occur later than four years following the  
46 date of approval of an application by the authority.

47 (b) As of the effective date of P.L.2017, c.314, a business which  
48 applied for the tax credit prior to July 1, 2014 under P.L.2011,

1 c.149 (C.34:1B-242 et al.), shall submit its documentation to the  
2 authority no later than July 28, 2019, indicating that it has met the  
3 capital investment and employment requirements specified in the  
4 incentive agreement for certification of its tax credit amount.

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

18 (3) Full-time employment for an accounting or privilege period  
19 shall be determined as the average of the monthly full-time  
20 employment for the period.

21 (4) A business seeking a credit for a mega project shall apply for  
22 the credit within four years after the effective date of the "New  
23 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161  
24 (C.52:27D-489p et al.).

25 c. (1) In conducting its annual review, the authority may  
26 require a business to submit any information determined by the  
27 authority to be necessary and relevant to its review.

28 The credit amount for any tax period for which the  
29 documentation of a business's credit amount remains uncertified as  
30 of a date three years after the closing date of that period shall be  
31 forfeited, although credit amounts for the remainder of the years of  
32 the eligibility period shall remain available to it.

33 The credit amount may be taken by the tax certificate holder for  
34 the tax period for which it was issued or may be carried forward for  
35 use by the tax certificate holder in any of the next 20 successive tax  
36 periods, and shall expire thereafter. The tax certificate holder may  
37 transfer the tax credit amount on or after the date of issuance or at  
38 any time within three years of the date of issuance for use by the  
39 transferee in the tax period for which it was issued or in any of the  
40 next 20 successive tax periods. Notwithstanding the foregoing, no  
41 more than the amount of tax credits equal to the total credit amount  
42 divided by the duration of the eligibility period in years may be  
43 taken in any tax period.

44 A business may elect to suspend its obligations for the 2020 tax  
45 period and, if the public health emergency or state of emergency  
46 declared due to the COVID-19 pandemic extends past March 2021,  
47 the 2021 tax period, provided that the business shall make such  
48 election in writing to the authority before the date the annual report

1 is due and such suspension shall extend the term of the eligibility  
2 period by a corresponding amount of time. The authority shall  
3 amend the incentive agreement, and the business shall execute the  
4 amended incentive agreement within the time period provided by  
5 the authority. The amended incentive agreement shall provide that  
6 the failure to submit the annual report due to the suspension shall  
7 not be a forfeiture or an uncertified tax period.

8 (2) Credits granted to a partnership shall be passed through to  
9 the partners, members, or owners, respectively, pro-rata or pursuant  
10 to an executed agreement among the partners, members, or owners  
11 documenting an alternate distribution method provided to the  
12 Director of the Division of Taxation in the Department of the  
13 Treasury accompanied by any additional information as the director  
14 may require.

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

20 (4) In order to respond to the profoundly negative impact of the  
21 COVID-19 pandemic on the State's economy and finances, the  
22 authority may request a tax certificate holder, at the tax certificate  
23 holder's discretion, to defer the application of a credit amount  
24 allowed pursuant to this section to a later tax period. Upon request,  
25 the authority and the tax certificate holder shall negotiate the terms  
26 of the deferral, which shall hold the certificate holder harmless,  
27 which will be made in the incentive agreement or as an addendum  
28 to the incentive agreement.

29 d. (1) If, in any tax period, the business reduces the total  
30 number of full-time employees in its Statewide workforce by more  
31 than 20 percent from the number of full-time employees in its  
32 Statewide workforce in the last tax period prior to the credit amount  
33 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the  
34 business shall forfeit its credit amount for that tax period and each  
35 subsequent tax period, until the first tax period for which  
36 documentation demonstrating the restoration of the business's  
37 Statewide workforce to the threshold levels required by the  
38 incentive agreement has been reviewed and approved by the  
39 authority, for which tax period and each subsequent tax period the  
40 full amount of the credit shall be allowed.

41 (2) If, in any tax period, the number of full-time employees  
42 employed by the business at the qualified business facility located  
43 within a qualified incentive area drops below 80 percent of the  
44 number of new and retained full-time jobs specified in the incentive  
45 agreement, then the business shall forfeit its credit amount for that  
46 tax period and each subsequent tax period, until the first tax period  
47 for which documentation demonstrating the restoration of the  
48 number of full-time employees employed by the business at the

1 qualified business facility to 80 percent of the number of jobs  
2 specified in the incentive agreement.

3 (3) (a) If the qualified business facility is sold by the owner in  
4 whole or in part during the eligibility period, the new owner shall  
5 not acquire the capital investment of the seller and the seller shall  
6 forfeit all credits for the tax period in which the sale occurs and all  
7 subsequent tax periods, provided however that any credits of the  
8 business shall remain unaffected.

9 (b) In connection with a regional distribution facility of  
10 foodstuffs, the business entity or entities which own or lease the  
11 facility shall qualify as a business regardless of: (i) the type of the  
12 business entity or entities which own or lease the facility; (ii) the  
13 ownership or leasing of the facility by more than one business  
14 entity; or (iii) the ownership of the business entity or entities which  
15 own or lease the facility. The ownership or leasing, whether by  
16 members, shareholders, partners, or other owners of the business  
17 entity or entities, shall be treated as ownership or leasing by  
18 affiliates. The members, shareholders, partners, or other ownership  
19 or leasing participants and others that are tenants in the facility shall  
20 be treated as affiliates for the purpose of counting the full-time  
21 employees and capital investments in the facility. The business  
22 entity or entities may distribute credits to members, shareholders,  
23 partners, or other ownership or leasing participants in accordance  
24 with their respective interests. If the business entity or entities or  
25 their members, shareholders, partners, or other ownership or leasing  
26 participants lease space in the facility to members, shareholders,  
27 partners, or other ownership or leasing participants or others as  
28 tenants in the facility, the leases shall be treated as a lease to an  
29 affiliate, and the business entity or entities shall not be subject to  
30 forfeiture of the credits. For the purposes of this section, leasing  
31 shall include subleasing and tenants shall include subtenants.

32 (4) (a) For a project located within a Garden State Growth Zone,  
33 if, in any tax period, the number of full-time employees employed  
34 by the business at the qualified business facility located within a  
35 qualified incentive area increases above the number of full-time  
36 employees specified in the incentive agreement, then the business  
37 shall be entitled to an increased base credit amount for that tax  
38 period and each subsequent tax period, for each additional full-time  
39 employee added above the number of full-time employees specified  
40 in the incentive agreement, until the first tax period for which  
41 documentation demonstrating a reduction of the number of full-time  
42 employees employed by the business at the qualified business  
43 facility, at which time the tax credit amount will be adjusted  
44 accordingly pursuant to this section.

45 (b) For a project located within a Garden State Growth Zone  
46 which qualifies under the "Municipal Rehabilitation and Economic  
47 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which  
48 contains a Tourism District as established pursuant to section 5 of

1 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino  
2 Reinvestment Development Authority, and which qualifies for a tax  
3 credit pursuant to subsubparagraph (ii) of subparagraphs (a) through  
4 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149  
5 (C.34:1B-246), if, in any tax period the number of full-time  
6 employees employed by the business at the qualified business  
7 facility located within a qualified incentive area increases above the  
8 number of full-time employees specified in the incentive agreement  
9 such that the business shall then meet the minimum number of  
10 employees required in subparagraph (b), (c), (d), or (e) of paragraph  
11 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),  
12 then the authority shall recalculate the total tax credit amount per  
13 full-time job by using the certified capital investment of the project  
14 allowable under the applicable subsubparagraph and the number of  
15 full-time jobs certified on the date of the recalculation and applying  
16 those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6)  
17 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),  
18 until the first tax period for which documentation demonstrating a  
19 reduction of the number of full-time employees employed by the  
20 business at the qualified business facility, at which time the tax  
21 credit amount shall be adjusted accordingly pursuant to this section.

22 e. The authority shall not enter into an incentive agreement  
23 with a business that has previously received incentives pursuant to  
24 the "Business Retention and Relocation Assistance Act," P.L.1996,  
25 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive  
26 Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other  
27 program administered by the authority unless:

28 (1) the business has satisfied all of its obligations underlying the  
29 previous award of incentives or is compliant with section 4 of  
30 P.L.2011, c.149 (C.34:1B-245); or

31 (2) the capital investment incurred and new or retained full-time  
32 jobs pledged by the business in the new incentive agreement are  
33 separate and apart from any capital investment or jobs underlying  
34 the previous award of incentives.

35 f. A business which has already applied for a tax credit  
36 incentive award prior to the effective date of the "New Jersey  
37 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-  
38 489p et al.), but who has not yet been approved for the tax credits,  
39 or has not executed an agreement with the authority, may proceed  
40 under that application or seek to amend the application or reapply  
41 for a tax credit incentive award for the same project or any part  
42 thereof for the purpose of availing itself of any more favorable  
43 provisions of the program.

44 g. A business that has entered into an incentive agreement may  
45 request before December 31, 2022 to terminate the incentive  
46 agreement due to the COVID-19 public health emergency; provided  
47 that the business shall submit a certification from the business's  
48 chief executive officer or equivalent officer stating that the

1 termination is due to the public health emergency and describing  
2 the impact of the public health emergency on the business. All  
3 credits for the tax period in which the termination occurs and all  
4 subsequent tax periods shall be forfeited, provided however that any  
5 credits of the business shall remain unaffected.

6 h. A business that has entered into an incentive agreement may  
7 request, before December 31, 2021, to reduce the number of new or  
8 retained full-time jobs specified in the incentive agreement based  
9 on a certification of the business of the eligible positions at the  
10 qualified business facility commencing with the 2020 tax period  
11 and, at the discretion of the business, whether the reduction shall  
12 continue for each subsequent tax period remaining in the eligibility  
13 period, provided that the business maintains the minimum number  
14 of new or retained full-time jobs required to be eligible pursuant to  
15 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The  
16 reduction in employment shall first apply to the number of new full-  
17 time employees, and then shall apply to the number of retained full-  
18 time employees.

19 The authority shall calculate a new tax credit total amount for the  
20 2020 tax period and the remainder of the eligibility period based on  
21 the reduced employment and shall amend the incentive agreement  
22 to reflect the recalculated award amount. In no event shall the  
23 modification result in an increase in employment or tax credit  
24 amount.

25 (cf: P.L.2020, c.156, s.108)

26

27 58. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to  
28 read as follows:

29 1. a. (1) A taxpayer, upon approval of an application to the  
30 authority and the director, shall be allowed a credit against the tax  
31 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
32 an amount equal to ~~【30】~~ 35 percent of the qualified film production  
33 expenses of the taxpayer during a privilege period commencing on  
34 or after July 1, 2018 but before July 1, ~~【2028】~~ 2034, provided that:

35 (a) at least 60 percent of the total film production expenses,  
36 exclusive of post-production costs, of the taxpayer are incurred for  
37 services performed, and goods purchased through vendors  
38 authorized to do business, in New Jersey, or the qualified film  
39 production expenses of the taxpayer during the privilege period for  
40 services performed, and goods purchased, through vendors  
41 authorized to do business in New Jersey, exceed \$1,000,000 per  
42 production;

43 (b) principal photography of the film commences within ~~【the~~  
44 ~~earlier of】~~ 180 days from the date of the original application for the  
45 tax credit ~~【,~~ or 150 days from the date of approval of the application  
46 for the tax credit~~】~~;

1 (c) the film includes, when determined to be appropriate by the  
2 commission, at no cost to the State, marketing materials promoting  
3 this State as a film and entertainment production destination, which  
4 materials shall include placement of a "Filmed in New Jersey" or  
5 "Produced in New Jersey" statement, or an approved logo approved  
6 by the commission, in the end credits of the film;

7 (d) the taxpayer submits a tax credit verification report prepared  
8 by an independent certified public accountant licensed in this State  
9 in accordance with subsection f. of this section; and

10 (e) the taxpayer complies with the withholding requirements  
11 provided for payments to loan out companies and independent  
12 contractors in accordance with subsection g. of this section.

13 (2) Notwithstanding the provisions of paragraph (1) of  
14 subsection a. of this section to the contrary, the tax credit allowed  
15 pursuant to this subsection against the tax imposed pursuant to  
16 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount  
17 equal to ~~35~~ 30 percent of the qualified film production expenses  
18 of the taxpayer during a privilege period that are incurred for  
19 services performed and tangible personal property purchased  
20 **through vendors whose primary place of business is located in**  
21 **Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,**  
22 **Mercer or Salem County** for use at a sound stage or other location  
23 that is located in the State within a 30-mile radius of the  
24 intersection of Eighth Avenue/Central Park West, Broadway, and  
25 West 59th Street/Central Park South, New York, New York.

26 b. (1) A taxpayer, upon approval of an application to the  
27 authority and the director, shall be allowed a credit against the tax  
28 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
29 an amount equal to: 20 percent of the qualified digital media  
30 content production expenses of the taxpayer during a privilege  
31 period commencing on or after July 1, 2018 but before July 1,  
32 ~~2028~~ 2034, provided that:

33 (a) at least \$2,000,000 of the total digital media content  
34 production expenses of the taxpayer are incurred for services  
35 performed, and goods purchased through vendors authorized to do  
36 business, in New Jersey;

37 (b) at least 50 percent of the qualified digital media content  
38 production expenses of the taxpayer are for wages and salaries paid  
39 to full-time or full-time equivalent employees in New Jersey;

40 (c) the taxpayer submits a tax credit verification report prepared  
41 by an independent certified public accountant licensed in this State  
42 in accordance with subsection f. of this section; and

43 (d) the taxpayer complies with the withholding requirements  
44 provided for payments to loan out companies and independent  
45 contractors in accordance with subsection g. of this section.

46 (2) Notwithstanding the provisions of paragraph (1) of  
47 subsection b. of this section to the contrary, the tax credit allowed  
48 pursuant to this subsection against the tax imposed pursuant to

1 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount  
2 equal to 25 percent of the qualified digital media content production  
3 expenses of the taxpayer during a privilege period that are incurred  
4 for services performed and tangible personal property purchased  
5 through vendors whose primary place of business is located in  
6 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,  
7 Mercer, or Salem County.

8 c. No tax credit shall be allowed pursuant to this section for  
9 any costs or expenses included in the calculation of any other tax  
10 credit or exemption granted pursuant to a claim made on a tax  
11 return filed with the director, or included in the calculation of an  
12 award of business assistance or incentive, for a period of time that  
13 coincides with the privilege period for which a tax credit authorized  
14 pursuant to this section is allowed. The order of priority in which  
15 the tax credit allowed pursuant to this section and any other tax  
16 credits allowed by law may be taken shall be as prescribed by the  
17 director. The amount of the tax credit applied under this section  
18 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
19 (C.54:10A-5), for a privilege period, when taken together with any  
20 other payments, credits, deductions, and adjustments allowed by  
21 law shall not reduce the tax liability of the taxpayer to an amount  
22 less than the statutory minimum provided in subsection (e) of  
23 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax  
24 credit otherwise allowable under this section which cannot be  
25 applied for the privilege period due to the limitations of this  
26 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-  
27 1 et seq.) may be carried forward, if necessary, to the seven  
28 privilege periods following the privilege period for which the tax  
29 credit was allowed.

30 d. A taxpayer, with an application for a tax credit provided for  
31 in subsection a. or subsection b. of this section, may apply to the  
32 authority and the director for a tax credit transfer certificate in lieu  
33 of the taxpayer being allowed any amount of the tax credit against  
34 the tax liability of the taxpayer. The tax credit transfer certificate,  
35 upon receipt thereof by the taxpayer from the authority and the  
36 director, may be sold or assigned, in full or in part, to any other  
37 taxpayer that may have a tax liability under the "Corporation  
38 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or  
39 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in  
40 exchange for private financial assistance to be provided by the  
41 purchaser or assignee to the taxpayer that has applied for and been  
42 granted the tax credit. The tax credit transfer certificate provided to  
43 the taxpayer shall include a statement waiving the taxpayer's right  
44 to claim that amount of the tax credit against the tax imposed  
45 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the  
46 taxpayer has elected to sell or assign. The sale or assignment of any  
47 amount of a tax credit transfer certificate allowed under this section  
48 shall not be exchanged for consideration received by the taxpayer of



1 less than 75 percent of the transferred tax credit amount. Any  
2 amount of a tax credit transfer certificate used by a purchaser or  
3 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1  
4 et seq.) shall be subject to the same limitations and conditions that  
5 apply to the use of a tax credit pursuant to subsection c. of this  
6 section. Any amount of a tax credit transfer certificate obtained by  
7 a purchaser or assignee under subsection a. or subsection b. of this  
8 section may be applied against the purchaser's or assignee's tax  
9 liability under N.J.S.54A:1-1 et seq. and shall be subject to the  
10 same limitations and conditions that apply to the use of a credit  
11 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56  
12 (C.54A:4-12b).

13 e. (1) The value of tax credits, including tax credits allowed  
14 through the granting of tax credit transfer certificates, approved by  
15 the director and the authority pursuant to subsection a. of this  
16 section and pursuant to subsection a. of section 2 of P.L.2018, c.56  
17 (C.54A:4-12b) to taxpayers, other than New Jersey **【film】 studio**  
18 partners and New Jersey film-lease partners, shall not exceed a  
19 cumulative total of \$100,000,000 in fiscal year 2019 and in each  
20 fiscal year thereafter prior to fiscal year **【2029】 2035** to apply  
21 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
22 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey  
23 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the  
24 \$100,000,000 limitation on the value of tax credits approved by the  
25 director for New Jersey film-lease partners and the \$100,000,000  
26 limitation on the value of tax credits approved by the director for  
27 other taxpayers imposed by this paragraph, the value of tax credits,  
28 including tax credits allowed through the granting of tax credit  
29 transfer certificates, approved by the director and the authority  
30 pursuant to subsection a. of this section and pursuant to subsection  
31 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey  
32 **【film】 studio** partners shall not exceed a cumulative total of  
33 \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter  
34 prior to fiscal year 2034 to apply against the tax imposed pursuant  
35 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed  
36 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
37 et seq. Beginning in fiscal year 2025, in addition to the  
38 \$100,000,000 made available for New Jersey studio partners  
39 pursuant to this paragraph, up to an additional \$350,000,000 may be  
40 made available annually, in the discretion of the authority, to New  
41 Jersey studio partners for the award of tax credits, including tax  
42 credits allowed through the granting of tax credit transfer  
43 certificates, pursuant to subsection a. of this section and subsection  
44 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds  
45 made available pursuant to subparagraph (i) of paragraph (1) of  
46 subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In  
47 addition to the \$100,000,000 limitation on the value of tax credits  
48 approved by the director for New Jersey **【film】 studio** partners and

1 the \$100,000,000 limitation on the value of tax credits approved by  
2 the director for other taxpayers imposed by this paragraph, the  
3 value of tax credits, including tax credits allowed through the  
4 granting of tax credit transfer certificates, approved by the director  
5 and the authority pursuant to subsection a. of this section and  
6 pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-  
7 12b) to New Jersey film-lease partners shall not exceed a  
8 cumulative total of \$100,000,000 in fiscal year 2021 and in each  
9 fiscal year thereafter prior to fiscal year 2034 to apply against the  
10 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)  
11 and the tax imposed pursuant to the "New Jersey Gross Income Tax  
12 Act," N.J.S.54A:1-1 et seq. Approvals made to New Jersey studio  
13 partners and New Jersey film-lease partners shall be subject to  
14 award agreements with the authority detailing obligations of the  
15 awardee and outcomes relating to events of default, including, but  
16 not limited to, recapture, forfeiture, and termination. If in any  
17 privilege period, beginning following a date determined by the  
18 authority, a New Jersey film-lease partner's annual average of  
19 qualified film production expenses falls below \$50,000,000, the  
20 authority shall reduce by 20 percent any tax credit award for a film  
21 for which final documentation pursuant to N.J.A.C.19:31-21.7(c)  
22 has been submitted, until a privilege period when the annual  
23 average of qualified film production expenses has been restored to  
24 \$50,000,000. The authority shall establish a non-binding,  
25 administrative pre-certification process for potentially eligible  
26 projects.

27 If the cumulative total amount of tax credits, and tax credit  
28 transfer certificates, allowed to taxpayers for privilege periods or  
29 taxable years commencing during a single fiscal year under  
30 subsection a. of this section and subsection a. of section 2 of  
31 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits  
32 available in that fiscal year, then taxpayers who have first applied  
33 for and have not been allowed a tax credit or tax credit transfer  
34 certificate amount for that reason shall be allowed, in the order in  
35 which they have submitted an application, the amount of tax credit  
36 or tax credit transfer certificate on the first day of the next  
37 succeeding fiscal year in which tax credits and tax credit transfer  
38 certificates under subsection a. of this section and subsection a. of  
39 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the  
40 amount of credits available.

41 Notwithstanding any provision of paragraph (1) of this  
42 subsection to the contrary, for any fiscal year in which the amount  
43 of tax credits approved pursuant to this paragraph is less than the  
44 cumulative total amount of tax credits permitted to be approved in  
45 that fiscal year, the authority shall certify the amount of the  
46 remaining tax credits available for approval in that fiscal year, and  
47 shall increase the cumulative total amount of tax credits permitted  
48 to be approved for New Jersey studio partners in the subsequent

1 fiscal year by the certified amount remaining from the prior fiscal  
2 year. The authority shall also certify, for each fiscal year, the  
3 amount of tax credits that were previously approved, but that the  
4 taxpayer is not able to redeem or transfer to another taxpayer under  
5 this section, and shall increase the cumulative total amount of tax  
6 credits permitted to be approved for New Jersey studio partners in  
7 the subsequent fiscal year by the amount of tax credits previously  
8 approved, but not subject to redemption or transfer.

9 (2) The value of tax credits, including tax credits allowed  
10 through the granting of tax credit transfer certificates, approved by  
11 the authority and the director pursuant to subsection b. of this  
12 section and pursuant to subsection b. of section 2 of P.L.2018, c.56  
13 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in  
14 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year  
15 **[2029]** 2035 to apply against the tax imposed pursuant to section 5  
16 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to  
17 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

18 If the total amount of tax credits and tax credit transfer  
19 certificates allowed to taxpayers for privilege periods or taxable  
20 years commencing during a single fiscal year under subsection b. of  
21 this section and subsection b. of section 2 of P.L.2018, c.56  
22 (C.54A:4-12.b) exceeds the amount of tax credits available in that  
23 year, then taxpayers who have first applied for and have not been  
24 allowed a tax credit or tax credit transfer certificate amount for that  
25 reason shall be allowed, in the order in which they have submitted  
26 an application, the amount of tax credit or tax credit transfer  
27 certificate on the first day of the next succeeding fiscal year in  
28 which tax credits and tax credit transfer certificates under  
29 subsection b. of this section and subsection b. of section 2 of  
30 P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of  
31 credits available.

32 Notwithstanding any provision of this paragraph to the contrary,  
33 for any fiscal year in which the amount of tax credits approved  
34 pursuant to this paragraph is less than the cumulative total amount  
35 of tax credits permitted to be approved in that fiscal year, the  
36 authority shall certify the amount of the remaining tax credits  
37 available for approval in that fiscal year, and shall increase the  
38 cumulative total amount of tax credits permitted to be approved in  
39 the subsequent fiscal year by the certified amount remaining from  
40 the prior fiscal year. The authority shall also certify, for each fiscal  
41 year, the amount of tax credits that were previously approved, but  
42 that the taxpayer is not able to redeem or transfer to another  
43 taxpayer under this section, and shall increase the cumulative total  
44 amount of tax credits permitted to be approved in the subsequent  
45 fiscal year by the amount of tax credits previously approved, but not  
46 subject to redemption or transfer.

47 f. A taxpayer shall submit to the authority and the director a  
48 report prepared by an independent certified public accountant

1 licensed in this State to verify the taxpayer's tax credit claim  
2 following the completion of the production. The report shall be  
3 prepared by the independent certified public accountant pursuant to  
4 agreed upon procedures prescribed by the authority and the director,  
5 and shall include such information and documentation as shall be  
6 determined to be necessary by the authority and the director to  
7 substantiate the qualified film production expenses or the qualified  
8 digital media content production expenses of the taxpayer. A single  
9 report with attachments deemed necessary by the authority shall be  
10 submitted electronically. Upon receipt of the report, the authority  
11 and the director shall review the findings of the independent  
12 certified public accountant's report, and shall make a determination  
13 as to the qualified film production expenses or the qualified digital  
14 media content production expenses of the taxpayer. The authority's  
15 and the director's review shall include, but shall not be limited to: a  
16 review of all non-payroll qualified film production expense items  
17 and non-payroll digital media content production expense items  
18 over \$20,000; a review of 100 randomly selected non-payroll  
19 qualified film production expense items and non-payroll digital  
20 media content production expense items that are greater than  
21 \$2,500, but less than \$20,000; a review of 100 randomly selected  
22 non-payroll qualified film production expense items and non-  
23 payroll digital media content production expense items that are less  
24 than \$2,500; a review of the qualified wages for the 15 employees,  
25 independent contractors, or loan-out companies with the highest  
26 qualified wages; and a review of the qualified wages for 35  
27 randomly selected employees, independent contractors, or loan-out  
28 companies with qualified wages other than the 15 employees,  
29 independent contractors, or loan-out companies with the highest  
30 qualified wages. The taxpayer's qualified film production expenses  
31 and digital media content production expenses shall be adjusted  
32 based on any discrepancies identified for the reviewed non-payroll  
33 qualified film production expense items, non-payroll digital media  
34 content production expense items and qualified wages. The  
35 taxpayer's qualified film production expenses and digital media  
36 content production expenses also shall be adjusted based on the  
37 projection of any discrepancies identified based on the review of  
38 randomly selected expense items or wages pursuant to this  
39 subsection to the extent that the discrepancies exceed one percent of  
40 the total reviewed non-payroll qualified film production expense  
41 items, non-payroll digital media content production expense items,  
42 or qualified wages. The determination shall be provided in writing  
43 to the taxpayer, and a copy of the written determination shall be  
44 included in the filing of a return that includes a claim for a tax  
45 credit allowed pursuant to this section.

46 g. A taxpayer shall withhold from each payment to a loan out  
47 company or to an independent contractor an amount equal to 6.37  
48 percent of the payment otherwise due. The amounts withheld shall

1 be deemed to be withholding of liability pursuant to the "New  
2 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the  
3 taxpayer shall be deemed to have the rights, duties, and  
4 responsibilities of an employer pursuant to chapter 7 of Title 54A of  
5 the New Jersey Statutes. The director shall allocate the amounts  
6 withheld for a taxable year to the accounts of the individuals who  
7 are employees of a loan out company in proportion to the  
8 employee's payment by the loan out company in connection with a  
9 trade, profession, or occupation carried on in this State or for the  
10 rendition of personal services performed in this State during the  
11 taxable year. A loan out company that reports its payments to  
12 employees in connection with a trade, profession, or occupation  
13 carried on in this State or for the rendition of personal services  
14 performed in this State during a taxable year shall be relieved of its  
15 duties and responsibilities as an employer pursuant to chapter 7 of  
16 Title 54A of the New Jersey Statutes for the taxable year for any  
17 payments relating to the payments on which the taxpayer withheld.

18 h. As used in this section:

19 "Authority" means the New Jersey Economic Development  
20 Authority.

21 "Business assistance or incentive" means "business assistance or  
22 incentive" as that term is defined pursuant to section 1 of P.L.2007,  
23 c.101 (C.54:50-39).

24 "Commission" means the Motion Picture and Television  
25 Development Commission.

26 "Digital media content" means any data or information that is  
27 produced in digital form, including data or information created in  
28 analog form but reformatted in digital form, text, graphics,  
29 photographs, animation, sound, and video content. "Digital media  
30 content" shall not mean content offerings generated by the end user  
31 (including postings on electronic bulletin boards and chat rooms);  
32 content offerings comprised primarily of local news, events,  
33 weather, or local market reports; public service content; electronic  
34 commerce platforms (such as retail and wholesale websites);  
35 websites or content offerings that contain obscene material as  
36 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or  
37 content that are produced or maintained primarily for private,  
38 industrial, corporate, or institutional purposes; or digital media  
39 content acquired or licensed by the taxpayer for distribution or  
40 incorporation into the taxpayer's digital media content.

41 "Film" means a feature film, a television series, or a television  
42 show of 22 minutes or more in length, intended for a national  
43 audience, or a television series or a television show of 22 minutes  
44 or more in length intended for a national or regional audience,  
45 including, but not limited to, a game show, award show, or other  
46 gala event filmed and produced at a nonprofit arts and cultural  
47 venue receiving State funding. "Film" shall not include a  
48 production featuring news, current events, weather, and market

1 reports or public programming, talk show, or sports event, a  
2 production that solicits funds, a production containing obscene  
3 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a  
4 production primarily for private, industrial, corporate, or  
5 institutional purposes, or a reality show, except if the production  
6 company of the reality show owns, leases, or otherwise occupies a  
7 production facility of no less than 20,000 square feet of real  
8 property for a minimum term of 24 months, and invests no less than  
9 \$3,000,000 in such a facility within a designated enterprise zone  
10 established pursuant to the "New Jersey Urban Enterprise Zones  
11 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted  
12 business district established pursuant to section 3 of P.L.2001,  
13 c.347 (C.52:27H-66.2). "Film" shall not include an award show or  
14 other gala event that is not filmed and produced at a nonprofit arts  
15 and cultural venue receiving State funding.

16 "Full-time or full-time equivalent employee" means an individual  
17 employed by the taxpayer for consideration for at least 35 hours a  
18 week, or who renders any other standard of service generally  
19 accepted by custom or practice as full-time or full-time equivalent  
20 employment, whose wages are subject to withholding as provided in  
21 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or  
22 who is a partner of a taxpayer, who works for the partnership for at  
23 least 35 hours a week, or who renders any other standard of service  
24 generally accepted by custom or practice as full-time or full-time  
25 equivalent employment, and whose distributive share of income,  
26 gain, loss, or deduction, or whose guaranteed payments, or any  
27 combination thereof, is subject to the payment of estimated taxes, as  
28 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
29 et seq. "Full-time or full-time equivalent employee" shall not  
30 include an individual who works as an independent contractor or on  
31 a consulting basis for the taxpayer.

32 "Highly compensated individual" means an individual who  
33 directly or indirectly receives compensation in excess of \$500,000  
34 for the performance of services used directly in a production. An  
35 individual receives compensation indirectly when the taxpayer pays  
36 a loan out company that, in turn, pays the individual for the  
37 performance of services.

38 "Incurred in New Jersey" means, for any application submitted  
39 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),  
40 pursuant to which a tax credit has not been allowed prior to the  
41 effective date of P.L. , c. (pending before the Legislature as this  
42 bill), service performed within New Jersey and tangible personal  
43 property used or consumed in New Jersey. A service is performed  
44 in New Jersey to the extent that the individual performing the  
45 service is physically located in New Jersey while performing the  
46 service. Notwithstanding where the property is delivered or  
47 acquired, rented tangible property is used or consumed in New  
48 Jersey to the extent that the property is located in New Jersey

1 during its use or consumption and is rented from a vendor  
2 authorized to do business in New Jersey or the film production  
3 company provides to the authority the vendor's information in a  
4 form and manner prescribed by the authority. Purchased tangible  
5 property is not used and consumed in New Jersey unless it is  
6 purchased from a vendor authorized to do business in New Jersey  
7 and is delivered to or acquired within New Jersey; provided,  
8 however, that if a production is also located in another jurisdiction,  
9 the purchased tangible property is used and consumed in New  
10 Jersey if the acquisition and delivery of purchased tangible property  
11 is located in either New Jersey or another jurisdiction where the  
12 production takes place.

13 "Independent contractor" means an individual treated as an  
14 independent contractor for federal and State tax purposes who is  
15 contracted with by the taxpayer for the performance of services  
16 used directly in a production.

17 "Loan out company" means a personal service corporation or  
18 other entity that is contracted with by the taxpayer to provide  
19 specified individual personnel, such as artists, crew, actors,  
20 producers, or directors for the performance of services used directly  
21 in a production. "Loan out company" shall not include entities  
22 contracted with by the taxpayer to provide goods or ancillary  
23 contractor services such as catering, construction, trailers,  
24 equipment, or transportation.

25 **["New Jersey film partner" means a film production company**  
26 **that has made a commitment to produce films or commercial**  
27 **audiovisual products in New Jersey and has developed, purchased,**  
28 **or executed a 10-year contract to lease a production facility of**  
29 **250,000 square feet or more as a "transformative project" pursuant**  
30 **to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five**  
31 **film production companies may be designated as a New Jersey film**  
32 **partner.】**

33 "New Jersey film-lease partner" means a taxpayer, including any  
34 taxpayer that is a member of a combined group under P.L.2018,  
35 c.131 (C.54:10A-4.11), that has made a commitment to lease or  
36 acquire a New Jersey production facility with an aggregate square  
37 footage of at least 50,000 square feet, which includes a sound stage  
38 and production support space such as production offices or a  
39 backlot, for a period of five or more successive years and commits  
40 to spend, on a separate-entity basis or in the aggregate with other  
41 members of the taxpayer's combined group, an annual average of  
42 \$50,000,000 of qualified film production expenses over the period  
43 of at least five but not to exceed 10 years.

44 "New Jersey studio partner" means a film production company  
45 that has made a commitment to produce films or commercial  
46 audiovisual products in New Jersey and has developed, purchased,  
47 or executed a 10-year contract to lease a production facility of  
48 250,000 square feet or more as a "transformative project" pursuant

1 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than  
2 three film production companies may be designated as a New Jersey  
3 studio partner.

4 "Partnership" means an entity classified as a partnership for  
5 federal income tax purposes.

6 "Post-production costs" means the costs of the phase of  
7 production of a film that follows principal photography, in which  
8 raw footage is cut and assembled into a finished film with sound  
9 synchronization and visual effects.

10 "Pre-production costs" means the costs of the phase of  
11 production of a film that precedes principal photography, in which a  
12 detailed schedule and budget for the production is prepared, the  
13 script and location is finalized, and contracts with vendors are  
14 negotiated.

15 "Qualified digital media content production expenses" means an  
16 expense incurred in New Jersey for the production of digital media  
17 content. "Qualified digital media content production expenses"  
18 shall include but not be limited to: wages and salaries of individuals  
19 employed in the production of digital media content on which the  
20 tax imposed by the "New Jersey Gross Income Tax Act,"  
21 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of  
22 computer software and hardware, data processing, visualization  
23 technologies, sound synchronization, editing, and the rental of  
24 facilities and equipment. Payment made to a loan out company or  
25 to an independent contractor shall not be deemed a "qualified digital  
26 media content production expense" unless the payment is made in  
27 connection with a trade, profession, or occupation carried on in this  
28 State or for the rendition of personal services performed in this  
29 State and the taxpayer has made the withholding required pursuant  
30 to subsection g. of this section. "Qualified digital media content  
31 production expenses" shall not include expenses incurred in  
32 marketing, promotion, or advertising digital media or other costs  
33 not directly related to the production of digital media content.  
34 Costs related to the acquisition or licensing of digital media content  
35 by the taxpayer for distribution or incorporation into the taxpayer's  
36 digital media content shall not be deemed "qualified digital media  
37 content production expenses."

38 "Qualified film production expenses" means an expense incurred  
39 in New Jersey for the production of a film including pre-production  
40 costs and post-production costs incurred in New Jersey. "Qualified  
41 film production expenses" shall include but not be limited to:  
42 wages and salaries of individuals employed in the production of a  
43 film on which the tax imposed by the "New Jersey Gross Income  
44 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the  
45 costs for tangible personal property used, and services performed,  
46 directly and exclusively in the production of a film, such as  
47 expenditures for film production facilities, props, makeup,  
48 wardrobe, film processing, camera, sound recording, set



1 construction, lighting, shooting, editing, and meals. Payment made  
2 to a loan out company or to an independent contractor shall not be  
3 deemed a "qualified film production expense" unless the payment is  
4 made in connection with a trade, profession, or occupation carried  
5 on in this State or for the rendition of personal services performed  
6 in this State and the taxpayer has made the withholding required  
7 pursuant to subsection g. of this section. "Qualified film production  
8 expenses" shall not include: expenses incurred in marketing or  
9 advertising a film; and payment in excess of \$500,000 to a highly  
10 compensated individual for costs for a story, script, or scenario used  
11 in the production of a film and wages or salaries or other  
12 compensation for writers, directors, including music directors,  
13 producers, and performers, other than background actors with no  
14 scripted lines, except as follows:

15 (1) for a New Jersey **【film】** studio partner that incurs more than  
16 \$15,000,000, but less than \$50,000,000, in qualified film production  
17 expenses in the State, an amount, not to exceed \$15,000,000, of the  
18 wages or salaries or other compensation for writers, directors,  
19 including music directors, producers, and performers, other than  
20 background actors with no scripted lines, shall constitute qualified  
21 film production expenses;

22 (2) for a New Jersey **【film】** studio partner that incurs  
23 \$50,000,000 or more, but less than \$100,000,000, in qualified film  
24 production expenses in the State, an amount, not to exceed  
25 \$25,000,000, of the wages or salaries or other compensation for  
26 writers, directors, including music directors, producers, and  
27 performers, other than background actors with no scripted lines,  
28 shall constitute qualified film production expenses;

29 (3) for a New Jersey **【film】** studio partner that incurs  
30 \$100,000,000 or more, but less than \$150,000,000, in qualified film  
31 production expenses in the State, an amount, not to exceed  
32 \$40,000,000, of the wages or salaries or other compensation for  
33 writers, directors, including music directors, producers, and  
34 performers, other than background actors with no scripted lines,  
35 shall constitute qualified film production expenses; and

36 (4) for a New Jersey **【film】** studio partner that incurs  
37 \$150,000,000 or more in qualified film production expenses in the  
38 State, an amount, not to exceed \$60,000,000, of the wages or  
39 salaries or other compensation for writers, directors, including  
40 music directors, producers, and performers, other than background  
41 actors with no scripted lines, shall constitute qualified film  
42 production expenses.

43 "Total digital media content production expenses" means costs  
44 for services performed and property used or consumed in the  
45 production of digital media content.

46 "Total film production expenses" means costs for services  
47 performed and tangible personal property used or consumed in the  
48 production of a film.

1 i. A business that is not a "taxpayer" as defined and used in the  
2 "Corporation Business Tax Act (1945)," P.L.1945, c.162  
3 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit  
4 under this section, but is a business entity that is classified as a  
5 partnership for federal income tax purposes and is ultimately owned  
6 by a business entity that is a "corporation" as defined in subsection  
7 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited  
8 liability company formed under the "Revised Uniform Limited  
9 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or  
10 qualified to do business in this State as a foreign limited liability  
11 company, with one member, and is wholly owned by the business  
12 entity that is a "corporation" as defined in subsection (c) of section  
13 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other  
14 requirements of this section, shall be considered an eligible  
15 applicant and "taxpayer" as that term is used in this section.  
16 (cf: P.L.2020, c.156, s.110)

17

18 59. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to  
19 read as follows:

20 2. a. (1) A taxpayer, upon approval of an application to the  
21 authority and the director, shall be allowed a credit against the tax  
22 otherwise due for the taxable year under the "New Jersey Gross  
23 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to **[30]**  
24 35 percent of the qualified film production expenses of the taxpayer  
25 during a taxable year commencing on or after July 1, 2018 but  
26 before July 1, **[2028]** 2034, provided that:

27 (a) at least 60 percent of the total film production expenses,  
28 exclusive of post-production costs, of the taxpayer are incurred for  
29 services performed, and goods purchased through vendors  
30 authorized to do business, in New Jersey, or the qualified film  
31 production expenses of the taxpayer during the taxable year for  
32 services performed, and goods purchased, through vendors  
33 authorized to do business in New Jersey, exceed \$1,000,000 per  
34 production;

35 (b) principal photography of the film commences within **[the**  
36 **earlier of]** 180 days from the date of the original application for the  
37 tax credit **[, or 150 days from the date of approval of the application**  
38 **for the tax credit]**;

39 (c) the film includes, when determined to be appropriate by the  
40 commission, at no cost to the State, marketing materials promoting  
41 this State as a film and entertainment production destination, which  
42 materials shall include placement of a "Filmed in New Jersey" or  
43 "Produced in New Jersey" statement, or an appropriate logo  
44 approved by the commission, in the end credits of the film;

45 (d) the taxpayer submits a tax credit verification report prepared  
46 by an independent certified public accountant licensed in this State  
47 in accordance with subsection g. of this section; and

1 (e) the taxpayer complies with the withholding requirements  
2 provided for payments to loan out companies and independent  
3 contractors in accordance with subsection h. of this section.

4 (2) Notwithstanding the provisions of paragraph (1) of  
5 subsection a. of this section to the contrary, the tax credit allowed  
6 pursuant to this subsection against the tax otherwise due for the  
7 taxable year under the "New Jersey Gross Income Tax Act,"  
8 N.J.S.54A:1-1 et seq., shall be in an amount equal to **[35]** 30  
9 percent of the qualified film production expenses of the taxpayer  
10 during a taxable year that are incurred for services performed and  
11 tangible personal property purchased **[through vendors whose**  
12 **primary place of business is located in Atlantic, Burlington,**  
13 **Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem**  
14 **County]** for use at a sound stage or other location that is located in  
15 the State within a 30-mile radius of the intersection of Eighth  
16 Avenue/Central Park West, Broadway, and West 59th Street/Central  
17 Park South, New York, New York.

18 b. (1) A taxpayer, upon approval of an application to the  
19 authority and the director, shall be allowed a credit against the tax  
20 otherwise due for the taxable year under the "New Jersey Gross  
21 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20  
22 percent of the qualified digital media content production expenses  
23 of the taxpayer during a taxable year commencing on or after July  
24 1, 2018 but before July 1, **[2028]** 2034, provided that:

25 (a) at least \$2,000,000 of the total digital media content  
26 production expenses of the taxpayer are incurred for services  
27 performed, and goods purchased through vendors authorized to do  
28 business, in New Jersey;

29 (b) at least 50 percent of the qualified digital media content  
30 production expenses of the taxpayer are for wages and salaries paid  
31 to full-time or full-time equivalent employees in New Jersey;

32 (c) the taxpayer submits a tax credit verification report prepared  
33 by an independent certified public accountant licensed in this State  
34 in accordance with subsection g. of this section; and

35 (d) the taxpayer complies with the withholding requirements  
36 provided for payments to loan out companies and independent  
37 contractors in accordance with subsection h. of this section.

38 (2) Notwithstanding the provisions of paragraph (1) of  
39 subsection b. of this section to the contrary, the tax credit allowed  
40 pursuant to this subsection against the tax otherwise due for the  
41 taxable year under the "New Jersey Gross Income Tax Act,"  
42 N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for  
43 the qualified digital media content production expenses of the  
44 taxpayer during a taxable year that are incurred for services  
45 performed and tangible personal property purchased through  
46 vendors whose primary place of business is located in Atlantic,  
47 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,  
48 or Salem County.

1 c. No tax credit shall be allowed pursuant to this section for  
2 any costs or expenses included in the calculation of any other tax  
3 credit or exemption granted pursuant to a claim made on a tax  
4 return filed with the director, or included in the calculation of an  
5 award of business assistance or incentive, for a period of time that  
6 coincides with the taxable year for which a tax credit authorized  
7 pursuant to this section is allowed. The order of priority in which  
8 the tax credit allowed pursuant to this section and any other tax  
9 credits allowed by law may be taken shall be as prescribed by the  
10 director. The amount of the tax credit applied under this section  
11 against the tax otherwise due under the "New Jersey Gross Income  
12 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken  
13 together with any other payments, credits, deductions, and  
14 adjustments allowed by law shall not reduce the tax liability of the  
15 taxpayer to an amount less than zero. The amount of the tax credit  
16 otherwise allowable under this section which cannot be applied for  
17 the taxable year due to the limitations of this subsection or under  
18 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if  
19 necessary, to the seven taxable years following the taxable year for  
20 which the tax credit was allowed.

21 d. (1) A business entity that is classified as a partnership for  
22 federal income tax purposes shall not be allowed a tax credit  
23 pursuant to this section directly, but the amount of tax credit of a  
24 taxpayer in respect of a distributive share of entity income, shall be  
25 determined by allocating to the taxpayer that proportion of the tax  
26 credit acquired by the entity that is equal to the taxpayer's share,  
27 whether or not distributed, of the total distributive income or gain  
28 of the entity for its taxable year ending within or with the taxpayer's  
29 taxable year.

30 (2) A New Jersey S Corporation shall not be allowed a tax credit  
31 pursuant to this section directly, but the amount of tax credit of a  
32 taxpayer in respect of a pro rata share of S Corporation income,  
33 shall be determined by allocating to the taxpayer that proportion of  
34 the tax credit acquired by the New Jersey S Corporation that is  
35 equal to the taxpayer's share, whether or not distributed, of the total  
36 pro rata share of S Corporation income of the New Jersey S  
37 Corporation for its privilege period ending within or with the  
38 taxpayer's taxable year.

39 A business entity that is not a gross income "taxpayer" as defined  
40 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
41 et seq., and therefore is not directly allowed a credit under this  
42 section, but otherwise meets all the other requirements of this  
43 section, shall be considered an eligible applicant and "taxpayer" as  
44 that term is used in this section, and the application of an otherwise  
45 allowed credit amount shall be distributed to appropriate gross  
46 income taxpayers pursuant to the other requirements of this  
47 subsection.

1 e. A taxpayer, with an application for a tax credit provided for  
2 in subsection a. or subsection b. of this section, may apply to the  
3 authority and the director for a tax credit transfer certificate in lieu  
4 of the taxpayer being allowed any amount of the tax credit against  
5 the tax liability of the taxpayer. The tax credit transfer certificate,  
6 upon receipt thereof by the taxpayer from the authority and the  
7 director, may be sold or assigned, in full or in part, to any other  
8 taxpayer that may have a tax liability under the "New Jersey Gross  
9 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation  
10 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in  
11 exchange for private financial assistance to be provided by the  
12 purchaser or assignee to the taxpayer that has applied for and been  
13 granted the tax credit. The tax credit transfer certificate provided to  
14 the taxpayer shall include a statement waiving the taxpayer's right  
15 to claim that amount of the tax credit against the tax imposed  
16 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to  
17 sell or assign. The sale or assignment of any amount of a tax credit  
18 transfer certificate allowed under this section shall not be  
19 exchanged for consideration received by the taxpayer of less than  
20 75 percent of the transferred tax credit amount. Any amount of a  
21 tax credit transfer certificate used by a purchaser or assignee against  
22 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the  
23 same limitations and conditions that apply to the use of a tax credit  
24 pursuant to subsections c. and d. of this section. Any amount of a  
25 tax credit transfer certificate obtained by a purchaser or assignee  
26 under subsection e. of this section may be applied against the  
27 purchaser's or assignee's tax liability under P.L.1945, c.162  
28 (C.54:10A-1 et seq.) and shall be subject to the same limitations  
29 and conditions that apply to the use of a credit pursuant to  
30 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

31 f. (1) The value of tax credits, including tax credits allowed  
32 through the granting of tax credit transfer certificates, approved by  
33 the director and the authority pursuant to subsection a. of this  
34 section and pursuant to subsection a. of section 1 of P.L.2018, c.56  
35 (C.54:10A-5.39b) to taxpayers, other than New Jersey **[film]** studio  
36 partners and New Jersey film-lease partners, shall not exceed a  
37 cumulative total of \$100,000,000 in fiscal year 2019 and in each  
38 fiscal year thereafter prior to fiscal year **[2029]** 2035 to apply  
39 against the tax imposed pursuant to the "New Jersey Gross Income  
40 Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of  
41 P.L.1945, c.162 (C.54:10A-5). In addition to the \$100,000,000  
42 limitation on the value of tax credits approved by the director for  
43 New Jersey film-lease partners and the \$100,000,000 limitation on  
44 the value of tax credits approved by the director for other taxpayers  
45 imposed by this paragraph, the value of tax credits, including tax  
46 credits allowed through the granting of tax credit transfer  
47 certificates, approved by the director and the authority pursuant to  
48 subsection a. of this section and pursuant to subsection a. of section

1 **[2]** 1 of P.L.2018, c.56 **[(C.54A:4-12b)]** (C.54:10A-5.39b) to New  
2 Jersey **[film]** studio partners shall not exceed a cumulative total of  
3 \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter  
4 prior to fiscal year 2034 to apply against the tax imposed pursuant  
5 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed  
6 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
7 et seq. Beginning in fiscal year 2025, in addition to the  
8 \$100,000,000 made available for New Jersey studio partners  
9 pursuant to this paragraph, up to an additional \$350,000,000 may be  
10 made available annually, in the discretion of the authority, to New  
11 Jersey studio partners for the award of tax credits, including tax  
12 credits allowed through the granting of tax credit transfer  
13 certificates, pursuant to subsection a. of this section and subsection  
14 a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds  
15 made available pursuant to subparagraph (i) of paragraph (1) of  
16 subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In  
17 addition to the \$100,000,000 limitation on the value of tax credits  
18 approved by the director for New Jersey **[film]** studio partners and  
19 the \$100,000,000 limitation on the value of tax credits approved by  
20 the director for other taxpayers imposed by this paragraph, the  
21 value of tax credits, including tax credits allowed through the  
22 granting of tax credit transfer certificates, approved by the director  
23 and the authority pursuant to subsection a. of this section and  
24 pursuant to subsection a. of section 1 of P.L.2018, c.56 **[(C.54A:4-**  
25 **12b)]** (C.54:10A-5.39b) to New Jersey film-lease partners shall not  
26 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and  
27 in each fiscal year thereafter prior to fiscal year 2034 to apply  
28 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
29 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey  
30 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Approvals made to  
31 New Jersey studio partners and New Jersey film-lease partners shall  
32 be subject to award agreements with the authority detailing  
33 obligations of the awardee and outcomes relating to events of  
34 default, including, but not limited to, recapture, forfeiture, and  
35 termination. If in any taxable year, beginning following a date  
36 determined by the authority, a New Jersey film-lease partner's  
37 annual average of qualified film production expenses falls below  
38 \$50,000,000, the authority shall reduce by 20 percent any tax credit  
39 award for a film for which final documentation pursuant to  
40 N.J.A.C.19:31-21.7(c) has been submitted, until a taxable year  
41 when the annual average of qualified film production expenses has  
42 been restored to \$50,000,000. The authority shall establish a non-  
43 binding, administrative pre-certification process for potentially  
44 eligible projects.

45 If the cumulative total amount of tax credits, and tax credit  
46 transfer certificates, allowed to taxpayers for taxable years or  
47 privilege periods commencing during a single fiscal year under

1 subsection a. of this section and subsection a. of section 1 of  
2 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits  
3 available in that fiscal year, then taxpayers who have first applied  
4 for and have not been allowed a tax credit or tax credit transfer  
5 certificate amount for that reason shall be allowed, in the order in  
6 which they have submitted an application, the amount of tax credit  
7 or tax credit transfer certificate on the first day of the next  
8 succeeding fiscal year in which tax credits and tax credit transfer  
9 certificates under subsection a. of this section and subsection a. of  
10 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of  
11 the amount of credits available.

12 Notwithstanding any provision of paragraph (1) of this  
13 subsection to the contrary, for any fiscal year in which the amount  
14 of tax credits approved pursuant to this paragraph is less than the  
15 cumulative total amount of tax credits permitted to be approved in  
16 that fiscal year, the authority shall certify the amount of the  
17 remaining tax credits available for approval in that fiscal year, and  
18 shall increase the cumulative total amount of tax credits permitted  
19 to be approved for New Jersey studio partners in the subsequent  
20 fiscal year by the certified amount remaining from the prior fiscal  
21 year. The authority shall also certify, for each fiscal year, the  
22 amount of tax credits that were previously approved, but that the  
23 taxpayer is not able to redeem or transfer to another taxpayer under  
24 this section, and shall increase the cumulative total amount of tax  
25 credits permitted to be approved for New Jersey studio partners in  
26 the subsequent fiscal year by the amount of tax credits previously  
27 approved, but not subject to redemption or transfer.

28 (2) The value of tax credits, including tax credits allowed  
29 through the granting of tax credit transfer certificates, approved by  
30 the authority and the director pursuant to subsection b. of this  
31 section and pursuant to subsection b. of section 1 of P.L.2018, c.56  
32 (C.54:10A-5.39b) shall not exceed a cumulative total of  
33 \$10,000,000 in fiscal year 2019 and in each fiscal year thereafter  
34 prior to fiscal year **[2029]** 2035 to apply against the tax imposed  
35 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
36 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162  
37 (C.54:10A-5).

38 If the total amount of tax credits and tax credit transfer  
39 certificates allowed to taxpayers for taxable years or privilege  
40 periods commencing during a single fiscal year under subsection b.  
41 of this section and subsection b. of section 1 of P.L.2018, c.56  
42 (C.54:10A-5.39b) exceeds the amount of tax credits available in  
43 that year, then taxpayers who have first applied for and have not  
44 been allowed a tax credit or tax credit transfer certificate amount for  
45 that reason shall be allowed, in the order in which they have  
46 submitted an application, the amount of tax credit or tax credit  
47 transfer certificate on the first day of the next succeeding fiscal year  
48 in which tax credits and tax credit transfer certificates under

1 subsection b. of this section and subsection b. of section 1 of  
2 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of  
3 credits available.

4 Notwithstanding any provision of this paragraph to the contrary,  
5 for any fiscal year in which the amount of tax credits approved  
6 pursuant to this paragraph is less than the cumulative total amount  
7 of tax credits permitted to be approved in that fiscal year, the  
8 authority shall certify the amount of the remaining tax credits  
9 available for approval in that fiscal year, and shall increase the  
10 cumulative total amount of tax credits permitted to be approved in  
11 the subsequent fiscal year by the certified amount remaining from  
12 the prior fiscal year. The authority shall also certify, for each fiscal  
13 year, the amount of tax credits that were previously approved, but  
14 that the taxpayer is not able to redeem or transfer to another  
15 taxpayer under this section, and shall increase the cumulative total  
16 amount of tax credits permitted to be approved in the subsequent  
17 fiscal year by the amount of tax credits previously approved, but not  
18 subject to redemption or transfer.

19 g. A taxpayer shall submit to the authority and the director a  
20 report prepared by an independent certified public accountant  
21 licensed in this State to verify the taxpayer's tax credit claim  
22 following the completion of the production. The report shall be  
23 prepared by the independent certified public accountant pursuant to  
24 agreed upon procedures prescribed by the authority and the director,  
25 and shall include such information and documentation as shall be  
26 determined to be necessary by the authority and the director to  
27 substantiate the qualified film production expenses or the qualified  
28 digital media content production expenses of the taxpayer. A single  
29 report with attachments deemed necessary by the authority shall be  
30 submitted electronically. Upon receipt of the report, the authority  
31 and the director shall review the findings of the independent  
32 certified public accountant's report, and shall make a determination  
33 as to the qualified film production expenses or the qualified digital  
34 media content production expenses of the taxpayer. The authority's  
35 and the director's review shall include, but shall not be limited to: a  
36 review of all non-payroll qualified film production expense items  
37 and non-payroll digital media content production expense items  
38 over \$20,000; a review of 100 randomly selected non-payroll  
39 qualified film production expense items and non-payroll digital  
40 media content production expense items that are greater than  
41 \$2,500, but less than \$20,000; a review of 100 randomly selected  
42 non-payroll qualified film production expense items and non-  
43 payroll digital media content production expense items that are less  
44 than \$2,500; a review of the qualified wages for the 15 employees,  
45 independent contractors, or loan-out companies with the highest  
46 qualified wages; and a review of the qualified wages for 35  
47 randomly selected employees, independent contractors, or loan-out  
48 companies with qualified wages other than the 15 employees,



1 independent contractors, or loan-out companies with the highest  
2 qualified wages. The taxpayer's qualified film production expenses  
3 and digital media content production expenses shall be adjusted  
4 based on any discrepancies identified for the reviewed non-payroll  
5 qualified film production expense items, non-payroll digital media  
6 content production expense items and qualified wages. The  
7 taxpayer's qualified film production expenses and digital media  
8 content production expenses also shall be adjusted based on the  
9 projection of any discrepancies identified based on the review of  
10 randomly selected expense items or wages pursuant to this  
11 subsection to the extent that the discrepancies exceed one percent of  
12 the total reviewed non-payroll qualified film production expense  
13 items, non-payroll digital media content production expense items,  
14 or qualified wages. The determination shall be provided in writing  
15 to the taxpayer, and a copy of the written determination shall be  
16 included in the filing of a return that includes a claim for a tax  
17 credit allowed pursuant to this section.

18 h. A taxpayer shall withhold from each payment to a loan out  
19 company or to an independent contractor an amount equal to 6.37  
20 percent of the payment otherwise due. The amounts withheld shall  
21 be deemed to be withholding of liability pursuant to the "New  
22 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the  
23 taxpayer shall be deemed to have the rights, duties, and  
24 responsibilities of an employer pursuant to chapter 7 of Title 54A of  
25 the New Jersey Statutes. The director shall allocate the amounts  
26 withheld for a taxable year to the accounts of the individuals who  
27 are employees of a loan out company in proportion to the  
28 employee's payment by the loan out company in connection with a  
29 trade, profession, or occupation carried on in this State or for the  
30 rendition of personal services performed in this State during the  
31 taxable year. A loan out company that reports its payments to  
32 employees in connection with a trade, profession, or occupation  
33 carried on in this State or for the rendition of personal services  
34 performed in this State during a taxable year shall be relieved of its  
35 duties and responsibilities as an employer pursuant to chapter 7 of  
36 Title 54A of the New Jersey Statutes for the taxable year for any  
37 payments relating to the payments on which the taxpayer withheld.

38 i. As used in this section:

39 "Authority" means the New Jersey Economic Development  
40 Authority.

41 "Business assistance or incentive" means "business assistance or  
42 incentive" as that term is defined pursuant to section 1 of P.L.2007,  
43 c.101 (C.54:50-39).

44 "Commission" means the Motion Picture and Television  
45 Development Commission.

46 "Digital media content" means any data or information that is  
47 produced in digital form, including data or information created in  
48 analog form but reformatted in digital form, text, graphics,

1 photographs, animation, sound, and video content. "Digital media  
2 content" shall not mean content offerings generated by the end user  
3 (including postings on electronic bulletin boards and chat rooms);  
4 content offerings comprised primarily of local news, events,  
5 weather or local market reports; public service content; electronic  
6 commerce platforms (such as retail and wholesale websites);  
7 websites or content offerings that contain obscene material as  
8 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or  
9 content that are produced or maintained primarily for private,  
10 industrial, corporate, or institutional purposes; or digital media  
11 content acquired or licensed by the taxpayer for distribution or  
12 incorporation into the taxpayer's digital media content.

13 "Film" means a feature film, a television series, or a television  
14 show of 22 minutes or more in length, intended for a national  
15 audience, or a television series or a television show of 22 minutes  
16 or more in length intended for a national or regional audience,  
17 including, but not limited to, a game show, award show, or other  
18 gala event filmed and produced at a nonprofit arts and cultural  
19 venue receiving State funding. "Film" shall not include a  
20 production featuring news, current events, weather, and market  
21 reports or public programming, talk show, sports event, or reality  
22 show, a production that solicits funds, a production containing  
23 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-  
24 3, or a production primarily for private, industrial, corporate, or  
25 institutional purposes. "Film" shall not include an award show or  
26 other gala event that is not filmed and produced at a nonprofit arts  
27 and cultural venue receiving State funding.

28 "Full-time or full-time equivalent employee" means an individual  
29 employed by the taxpayer for consideration for at least 35 hours a  
30 week, or who renders any other standard of service generally  
31 accepted by custom or practice as full-time or full-time equivalent  
32 employment, whose wages are subject to withholding as provided in  
33 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or  
34 who is a partner of a taxpayer, who works for the partnership for at  
35 least 35 hours a week, or who renders any other standard of service  
36 generally accepted by custom or practice as full-time or full-time  
37 equivalent employment, and whose distributive share of income,  
38 gain, loss, or deduction, or whose guaranteed payments, or any  
39 combination thereof, is subject to the payment of estimated taxes, as  
40 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
41 et seq. "Full-time or full-time equivalent employee" shall not  
42 include an individual who works as an independent contractor or on  
43 a consulting basis for the taxpayer.

44 "Highly compensated individual" means an individual who  
45 directly or indirectly receives compensation in excess of \$500,000  
46 for the performance of services used directly in a production. An  
47 individual receives compensation indirectly when the taxpayer pays

1 a loan out company that, in turn, pays the individual for the  
2 performance of services.

3 “Incurred in New Jersey” means, for any application submitted  
4 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),  
5 pursuant to which a tax credit has not been allowed prior to the  
6 effective date of P.L. , c. (pending before the Legislature as this  
7 bill), service performed within New Jersey and tangible personal  
8 property used or consumed in New Jersey. A service is performed  
9 in New Jersey to the extent that the individual performing the  
10 service is physically located in New Jersey while performing the  
11 service. Notwithstanding where the property is delivered or  
12 acquired, rented tangible property is used or consumed in New  
13 Jersey to the extent that the property is located in New Jersey  
14 during its use or consumption and is rented from a vendor  
15 authorized to do business in New Jersey or the film production  
16 company provides to the authority the vendor’s information in a  
17 form and manner prescribed by the authority. Purchased tangible  
18 property is not used and consumed in New Jersey unless it is  
19 purchased from a vendor authorized to do business in New Jersey  
20 and is delivered to or acquired within New Jersey; provided,  
21 however, that if a production is also located in another jurisdiction,  
22 the purchased tangible property is used and consumed in New  
23 Jersey if the acquisition and delivery of purchased tangible property  
24 is located in either New Jersey or another jurisdiction where the  
25 production takes place.

26 "Independent contractor" means an individual treated as an  
27 independent contractor for federal and State tax purposes who is  
28 contracted with by the taxpayer for the performance of services  
29 used directly in a production.

30 "Loan out company" means a personal service corporation or  
31 other entity that is contracted with by the taxpayer to provide  
32 specified individual personnel, such as artists, crew, actors,  
33 producers, or directors for the performance of services used directly  
34 in a production. "Loan out company" shall not include entities  
35 contracted with by the taxpayer to provide goods or ancillary  
36 contractor services such as catering, construction, trailers,  
37 equipment, or transportation.

38 **【"New Jersey film partner" means a film production company**  
39 **that has made a commitment to produce films or commercial**  
40 **audiovisual products in New Jersey and has developed, purchased,**  
41 **or executed a 10-year contract to lease a production facility of**  
42 **250,000 square feet or more as a "transformative project" pursuant**  
43 **to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five**  
44 **film production companies may be designated as a New Jersey film**  
45 **partner.】**

46 "New Jersey film-lease partner" means a taxpayer, including any  
47 taxpayer that is a member of a combined group under P.L.2018,  
48 c.131 (C:54:10A-4.11), that has made a commitment to lease or

1 acquire a New Jersey production facility with an aggregate square  
2 footage of at least 50,000 square feet, which includes a sound stage  
3 and production support space such as production offices or a  
4 backlot, for a period of five or more successive years and commits  
5 to spend, on a separate-entity basis or in the aggregate with other  
6 members of the taxpayer's combined group, an annual average of  
7 \$50,000,000 of qualified film production expenses over the period  
8 of at least five but not to exceed 10 years.

9 "New Jersey studio partner" means a film production company  
10 that has made a commitment to produce films or commercial  
11 audiovisual products in New Jersey and has developed, purchased,  
12 or executed a 10-year contract to lease a production facility of  
13 250,000 square feet or more as a "transformative project" pursuant  
14 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than  
15 three film production companies may be designated as a New Jersey  
16 studio partner.

17 "Partnership" means an entity classified as a partnership for  
18 federal income tax purposes.

19 "Post-production costs" means the costs of the phase of  
20 production of a film that follows principal photography, in which  
21 raw footage is cut and assembled into a finished film with sound  
22 synchronization and visual effects.

23 "Pre-production costs" means the costs of the phase of  
24 production of a film that precedes principal photography, in which a  
25 detailed schedule and budget for the production is prepared, the  
26 script and location is finalized, and contracts with vendors are  
27 negotiated.

28 "Qualified digital media content production expenses" means an  
29 expense incurred in New Jersey for the production of digital media  
30 content. "Qualified digital media content production expenses"  
31 shall include but not be limited to: wages and salaries of individuals  
32 employed in the production of digital media content on which the  
33 tax imposed by the "New Jersey Gross Income Tax Act,"  
34 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of  
35 computer software and hardware, data processing, visualization  
36 technologies, sound synchronization, editing, and the rental of  
37 facilities and equipment. Payment made to a loan out company or  
38 to an independent contractor shall not be deemed a "qualified digital  
39 media content production expense" unless the payment is made in  
40 connection with a trade, profession, or occupation carried on in this  
41 State or for the rendition of personal services performed in this  
42 State and the taxpayer has made the withholding required pursuant  
43 to subsection h. of this section. "Qualified digital media content  
44 production expenses" shall not include expenses incurred in  
45 marketing, promotion, or advertising digital media or other costs  
46 not directly related to the production of digital media content.  
47 Costs related to the acquisition or licensing of digital media content  
48 by the taxpayer for distribution or incorporation into the taxpayer's

1 digital media content shall not be deemed "qualified digital media  
2 content production expenses."

3 "Qualified film production expenses" means an expense incurred  
4 in New Jersey for the production of a film including pre-production  
5 costs and post-production costs incurred in New Jersey. "Qualified  
6 film production expenses" shall include but not be limited to:  
7 wages and salaries of individuals employed in the production of a  
8 film on which the tax imposed by the "New Jersey Gross Income  
9 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the  
10 costs for tangible personal property used, and services performed,  
11 directly and exclusively in the production of a film, such as  
12 expenditures for film production facilities, props, makeup,  
13 wardrobe, film processing, camera, sound recording, set  
14 construction, lighting, shooting, editing, and meals. Payment made  
15 to a loan out company or to an independent contractor shall not be  
16 deemed a "qualified film production expense" unless the payment is  
17 made in connection with a trade, profession, or occupation carried  
18 on in this State or for the rendition of personal services performed  
19 in this State and the taxpayer has made the withholding required by  
20 subsection h. of this section. "Qualified film production expenses"  
21 shall not include: expenses incurred in marketing or advertising a  
22 film; and payment in excess of \$500,000 to a highly compensated  
23 individual for costs for a story, script, or scenario used in the  
24 production of a film and wages or salaries or other compensation  
25 for writers, directors, including music directors, producers, and  
26 performers, other than background actors with no scripted lines,  
27 except as follows:

28 (1) for a New Jersey **【film】** studio partner that incurs more than  
29 \$15,000,000, but less than \$50,000,000, in qualified film production  
30 expenses in the State, an amount, not to exceed \$15,000,000, of the  
31 wages or salaries or other compensation for writers, directors,  
32 including music directors, producers, and performers, other than  
33 background actors with no scripted lines, shall constitute qualified  
34 film production expenses;

35 (2) for a New Jersey **【film】** studio partner that incurs  
36 \$50,000,000 or more, but less than \$100,000,000, in qualified film  
37 production expenses in the State, an amount, not to exceed  
38 \$25,000,000, of the wages or salaries or other compensation for  
39 writers, directors, including music directors, producers, and  
40 performers, other than background actors with no scripted lines,  
41 shall constitute qualified film production expenses;

42 (3) for a New Jersey **【film】** studio partner that incurs  
43 \$100,000,000 or more, but less than \$150,000,000, in qualified film  
44 production expenses in the State, an amount, not to exceed  
45 \$40,000,000, of the wages or salaries or other compensation for  
46 writers, directors, including music directors, producers, and  
47 performers, other than background actors with no scripted lines,  
48 shall constitute qualified film production expenses; and

1 (4) for a New Jersey **【film】** studio partner that incurs  
2 \$150,000,000 or more in qualified film production expenses in the  
3 State, an amount, not to exceed \$60,000,000, of the wages or  
4 salaries or other compensation for writers, directors, including  
5 music directors, producers, and performers, other than background  
6 actors with no scripted lines, shall constitute qualified film  
7 production expenses.

8 "Total digital media content production expenses" means costs  
9 for services performed and property used or consumed in the  
10 production of digital media content.

11 "Total film production expenses" means costs for services  
12 performed and tangible personal property used or consumed in the  
13 production of a film.

14 (cf: P.L.2020, c.156, s.111)

15

16 60. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to  
17 read as follows:

18 9. a. (1) The trust may make and contract to make loans to  
19 local government units, or to a local government unit on behalf of  
20 another local government unit, in accordance with and subject to the  
21 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,  
22 c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater  
23 treatment system project or water supply project, which the local  
24 government unit may lawfully undertake or acquire and for which  
25 the local government unit is authorized by law to borrow money.

26 (2) The trust may make and contract to make loans to public  
27 water utilities, or to any other person or local government unit on  
28 behalf of a public water utility, in accordance with and subject to  
29 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,  
30 c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply  
31 project, which the public water utility may lawfully undertake or  
32 acquire.

33 (3) The trust may make and contract to make loans to private  
34 persons other than local government units, or to any other person or  
35 local government unit on behalf of a private person, in accordance  
36 with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1  
37 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost  
38 of stormwater management systems.

39 (4) The trust may make and contract to make loans and provide  
40 other assistance to a local government unit or consortia thereof to  
41 finance the cost of transportation projects pursuant to sections 22  
42 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through  
43 C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-  
44 22.4), and provided that the federally-funded subaccount is operated  
45 in accordance with the provisions of the federal infrastructure bank  
46 program.

47 The loans may be made subject to those terms and conditions as  
48 the trust shall determine to be consistent with the purposes thereof.

1 Each loan by the trust and the terms and conditions thereof shall be  
2 subject to approval by the State Treasurer, and the trust shall make  
3 available to the State Treasurer all information, statistical data and  
4 reports of independent consultants or experts as the State Treasurer  
5 shall deem necessary in order to evaluate the loan. Each loan to a  
6 local government unit, public water utility or any other person shall  
7 be evidenced by notes, bonds or other obligations thereof issued to  
8 the trust. In the case of each local government unit, notes and  
9 bonds to be issued to the trust and, if applicable, the State, acting by  
10 and through the Department of Environmental Protection, by the  
11 local government unit (1) shall be authorized and issued as provided  
12 by law for the issuance of notes and bonds by the local government  
13 unit, (2) notwithstanding any provisions of the "Local Authorities  
14 Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) to the  
15 contrary, shall be approved by the Director of the Division of Local  
16 Government Services in the Department of Community Affairs, and  
17 (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-  
18 28 and N.J.S.40A:2-29 or any other provisions of law to the  
19 contrary, may be sold at private sale to the trust or the State, as the  
20 case may be, at any price, whether or not less than par value, and  
21 shall be subject to redemption prior to maturity at any times and at  
22 any prices as the trust or the State, as the case may be, and local  
23 government units may agree. Each loan to a local government unit,  
24 public water utility or any other person and the notes, bonds or  
25 other obligations thereby issued shall bear interest at a rate or rates  
26 per annum as the trust or the State, as the case may be, and the local  
27 government unit, public water utility or any other person, as the  
28 case may be, may agree.

29 b. The trust is authorized to guarantee or contract to guarantee  
30 the payment of all or any portion of the principal and interest on  
31 bonds, notes or other obligations issued by a local government unit  
32 to finance the cost of any wastewater treatment system project,  
33 water supply project, **or** transportation project, or redevelopment  
34 project that includes, as a portion thereof, any wastewater treatment  
35 system project, water supply project, or transportation project,  
36 which the local government unit may lawfully undertake or acquire  
37 and for which the local government unit is authorized by law to  
38 borrow money, and the guarantee shall constitute an obligation of  
39 the trust, and shall be in furtherance of the corporate purposes of the  
40 trust, for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.),  
41 P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34  
42 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-  
43 10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4). Each  
44 guarantee by the trust and the terms and conditions thereof shall be  
45 subject to approval by the State Treasurer, and the trust shall make  
46 available to the State Treasurer all information, statistical data and  
47 reports of independent consultants or experts as the State Treasurer  
48 shall deem necessary in order to evaluate the guarantee.

1 c. The trust shall not make or contract to make any loans or  
2 guarantees to local government units, public water utilities or any  
3 other person, or otherwise incur any additional indebtedness, on or  
4 after June 30, 2033.

5 d. Notwithstanding any provision of P.L.1985, c.334  
6 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to  
7 the contrary, the trust may receive funds from any source including,  
8 without limitation, any funds drawn by the trust from a revolving  
9 line of credit or other similar financial vehicle that may be procured  
10 by the trust, either through a competitive or negotiated process,  
11 pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit  
12 into the Interim Environmental Financing Program Fund or the trust  
13 may issue its bonds, notes or other obligations, including  
14 commercial paper issued through a competitive or negotiated  
15 process, in any principal amounts, in either case, as in the judgment  
16 of the trust shall be necessary to provide sufficient funds to finance  
17 or refinance short-term or temporary loans to local government  
18 units, public water utilities or private persons for any wastewater  
19 treatment system projects included on the Department of  
20 Environmental Protection project priority list and eligible for  
21 approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20)  
22 or water supply projects included on the Department of  
23 Environmental Protection project priority list and eligible for  
24 approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1),  
25 as applicable, without regard to any other provisions of P.L.1985,  
26 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et  
27 al.), including, without limitation, any administrative or legislative  
28 approvals.

29 The trust shall create and establish a special fund to be known as  
30 the "Interim Environmental Financing Program Fund" for the short-  
31 term or temporary loan financing or refinancing program to be  
32 known as the "Interim Environmental Financing Program." The  
33 monies in the fund shall be used for short-term or temporary loans  
34 for clean water and drinking water projects pursuant to the New  
35 Jersey Environmental Infrastructure Financing Program.

36 Except as provided in section 1 of P.L.2013, c.93 (C.58:11B-  
37 9.5), any short-term or temporary loans made by the trust pursuant  
38 to this subsection may only be made in advance of the anticipated  
39 loans the trust may make and contract to make under the provisions  
40 of subsection a. of this section from any source of funds anticipated  
41 to be received by the trust. Any such short-term or temporary loan  
42 made pursuant to the Interim Environmental Financing Program  
43 shall mature no later than the last day of the third succeeding fiscal  
44 year following the closing date on which the short-term or  
45 temporary loan was made by the trust to the project sponsor; except  
46 a planning, design, and construction loan shall mature no later than  
47 the last day of the fifth succeeding fiscal year following the closing  
48 date of the planning, design, and construction loan or the last day of



1 the third succeeding fiscal year following the date of construction  
2 certification following the closing date of the planning, design, and  
3 construction loan, whichever is sooner, provided that, in either case,  
4 project planning or engineering design activities shall not exceed  
5 two years from the closing date of the planning, design, and  
6 construction loan; and except a short-term or temporary loan made  
7 pursuant to this subsection for environmental planning and  
8 engineering design costs associated with long-term control plans for  
9 combined sewer overflow projects shall mature no later than the last  
10 day of the 10th succeeding fiscal year following the closing date on  
11 which the short-term or temporary loan was made by the trust to the  
12 project sponsor. With respect to any short-term or temporary loan  
13 or planning, design, and construction loan made by the trust  
14 pursuant to this subsection, the trust may authorize one short-term  
15 supplemental loan for residual project expenses thereof upon receipt  
16 by the trust from the Department of Environmental Protection of a  
17 certification that states that the time required by the project sponsor  
18 to complete construction of the project exceeds the maximum  
19 maturity date of the project sponsor's outstanding short-term or  
20 temporary loan or planning, design, and construction loan. Any  
21 such short-term supplemental loan shall not exceed in duration the  
22 last day of the third succeeding fiscal year following the loan  
23 closing of the supplemental loan. The trust may make short-term or  
24 temporary loans pursuant to the Interim Environmental Financing  
25 Program to any one or more of the project sponsors, for the  
26 respective projects thereof, identified in the interim financing  
27 project priority list to be known as the "Interim Environmental  
28 Financing Program Project Priority List" in the form provided to the  
29 Legislature by the Commissioner of Environmental Protection.

30 The Interim Environmental Financing Program Project Priority  
31 List, including any revision thereof or supplement thereto, shall be  
32 submitted to the Legislature pursuant to section 2 of P.L.1991,  
33 c.164 (C.52:14-19.1) at least once in each fiscal year as provided in  
34 section 20 of P.L.1985, c.334 (C.58:11B-20) and section 24 of  
35 P.L.1997, c.224 (C.58:11B-20.1). The Secretary and the Clerk shall  
36 cause the date of submission to be entered upon the Senate Journal  
37 and the Minutes of the General Assembly, respectively. The trust  
38 may revise or supplement the Interim Environmental Financing  
39 Program Project Priority List no more than four times during the  
40 fiscal year and shall submit the revised list to the Legislature when  
41 the revisions are made. Any environmental infrastructure project or  
42 the project sponsor thereof not identified in the Interim  
43 Environmental Financing Program Project Priority List shall not be  
44 eligible for a short-term or temporary loan from the Interim  
45 Environmental Financing Program Fund. The trust may issue short-  
46 term or temporary loans pursuant to this subsection only if a project  
47 is listed on an Interim Environmental Financing Program Project  
48 Priority List that has been submitted to the Legislature. No funds

1 may be disbursed pursuant to this section for project activities prior  
2 to a determination and certification, in writing, from the  
3 Department of Environmental Protection, that the project activities  
4 satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.).

5 e. Notwithstanding any provisions of the "Local Bond Law"  
6 (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946,  
7 c.138 (C.40:14A-1 et seq.), or the "municipal and county utilities  
8 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the  
9 contrary, short-term or temporary loans made by the trust pursuant  
10 to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of  
11 P.L.2013, c.93 (C.58:11B-9.5), and the obligations issued by project  
12 sponsors to evidence such loans, may, at the discretion of the trust  
13 and upon application by the project sponsor, bear interest at a  
14 variable rate determined pursuant to a methodology as may be  
15 established by the trust from time to time.

16 Further, notwithstanding any provisions of the "Local Bond  
17 Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law,"  
18 P.L.1946, c.138 (C.40:14A-1 et seq.), or the "municipal and county  
19 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to  
20 the contrary, any short-term or temporary loans made by the trust  
21 pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1  
22 of P.L.2013, c.93 (C.58:11B-9.5), and any notes or other  
23 obligations issued by project sponsors to evidence such short-term  
24 or temporary loans, as such loans, notes, or other obligations may  
25 be refinanced or extended, as provided in subsections d. and g. of  
26 this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), except  
27 for loans for environmental planning and engineering design costs  
28 associated with long-term control plans for combined sewer  
29 overflow projects as provided in subsection d. of this section, shall  
30 mature no later than the maturity date as established pursuant to  
31 subsections d. and g. of this section and section 1 of P.L.2013, c.93  
32 (C.58:11B-9.5), without payment by project sponsors of any portion  
33 of the principal thereof prior to maturity.

34 f. Any balances remaining in the Emergency Loan Fund  
35 established pursuant to section 4 of P.L.2007, c.138 (C.58:11B-9.1),  
36 the Planning and Design Fund established pursuant to section 1 of  
37 P.L.2009, c.59 (C.58:11B-9.2), the Onsite Wastewater Disposal  
38 Loan Fund established pursuant to section 5 of P.L.2009, c.103  
39 (C.58:11B-9.3), the Supplemental Loan Fund established pursuant  
40 to section 2 of P.L.2011, c.94 (C.58:11B-9.4), and the Equipment  
41 Loan Fund established pursuant to section 1 of P.L.2014, c.28  
42 (C.58:11B-9.6) after the date of enactment of P.L.2016, c.30 shall  
43 be transferred to the Interim Environmental Financing Program  
44 Fund, and any loan repayments to the trust of principal and interest  
45 or premium on loans made from those funds shall be credited to the  
46 Interim Environmental Financing Program Fund.

47 g. The trust shall create and establish a special fund to be  
48 known as the "Interim Transportation Financing Program Fund" for

1 the short-term or temporary loan financing or refinancing program  
2 to be known as the "Interim Transportation Financing Program."

3 Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1  
4 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary,  
5 the trust may receive funds from any source including, without  
6 limitation, any funds drawn by the trust from a revolving line of  
7 credit or other similar financial vehicle that may be procured by the  
8 trust, either through a competitive or negotiated process, pursuant to  
9 section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the  
10 Interim Transportation Financing Program Fund or the trust may  
11 issue its bonds, notes or other obligations in any principal amounts,  
12 in either case, as in the judgment of the trust shall be necessary to  
13 provide sufficient funds to finance or refinance short-term or  
14 temporary loans to local government units or private persons for  
15 any transportation project included on the Department of  
16 Transportation Interim Transportation Financing Program Project  
17 Priority List for the ensuing fiscal year and eligible for approval  
18 pursuant to sections 22 and 34 through 38 of P.L.2016, c.56  
19 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-  
20 22.3, and C.58:11B-22.4), without regard to any other provisions of  
21 P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-  
22 10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56  
23 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-  
24 22.3, and C.58:11B-22.4), including, without limitation, any  
25 administrative or legislative approvals.

26 Any short-term or temporary loans made by the trust pursuant to  
27 this subsection may only be made in advance of the anticipated  
28 loans the trust may make and contract to make under the provisions  
29 of subsection a. of this section from any source of funds anticipated  
30 to be received by the trust. Any such short-term or temporary loan  
31 made pursuant to the Interim Transportation Financing Program  
32 shall mature no later than the last day of the third succeeding fiscal  
33 year following the closing date on which the short-term or  
34 temporary loan was made by the trust to the project sponsor; except  
35 a planning, design, and construction loan shall mature no later than  
36 the last day of the fifth succeeding fiscal year following the closing  
37 date of the planning, design, and construction loan or the last day of  
38 the third succeeding fiscal year following the date of construction  
39 certification following the closing date of the planning, design, and  
40 construction loan, whichever is sooner, provided that, in either case,  
41 project planning or engineering design activities shall not exceed  
42 two years from the closing date of the planning, design, and  
43 construction loan. With respect to any short-term or temporary loan  
44 or planning, design, and construction loan made by the trust  
45 pursuant to this subsection, the trust may authorize one short-term  
46 supplemental loan for residual expenses thereof upon receipt by the  
47 trust from the Department of Transportation of a certification that  
48 states that the time required by the project sponsor to complete

1 construction of the project exceeds the maximum maturity date of  
2 the short-term or temporary loan or planning, design, and  
3 construction loan. Any such short-term supplemental loan shall not  
4 exceed in duration the last day of the third succeeding fiscal year  
5 following the loan closing of the short-term supplemental loan. The  
6 trust may make short-term or temporary loans pursuant to the  
7 Interim Transportation Financing Program to any one or more of the  
8 project sponsors, for the respective projects thereof, only if a  
9 project is identified in the Department of Transportation Interim  
10 Transportation Financing Program Project Priority List to be known  
11 as the "Interim Transportation Financing Program Project Priority  
12 List" in the form provided to the Legislature by the Commissioner  
13 of Transportation.

14 The Interim Transportation Financing Program Project Priority  
15 List, including any revision thereof or supplement thereto, shall be  
16 submitted to the Secretary of the Senate and the Clerk of the  
17 General Assembly on or before July 1 of each year. The Interim  
18 Transportation Financing Program Project Priority List shall be  
19 submitted to the Legislature pursuant to section 2 of P.L.1991,  
20 c.164 (C.52:14-19.1) at least once in each fiscal year. The  
21 Secretary and the Clerk shall cause the date of submission to be  
22 entered upon the Senate Journal and the Minutes of the General  
23 Assembly, respectively. Any transportation infrastructure project or  
24 the project sponsor thereof not identified in the Interim  
25 Transportation Financing Program Project Priority List shall not be  
26 eligible for a short-term or temporary loan from the Interim  
27 Transportation Financing Program Fund. The trust may revise or  
28 supplement the Interim Transportation Financing Program Project  
29 Priority List no more than four times during the fiscal year, and  
30 shall submit the revised list to the Legislature when the revisions  
31 are made.

32 No funds may be disbursed pursuant to this subsection for  
33 project activities prior to written notification of award concurrence  
34 from the Department of Transportation and certification in writing,  
35 from the trust, that the project activities satisfy the provisions of  
36 P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-  
37 10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56  
38 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-  
39 22.3, and C.58:11B-22.4).

40 (cf: P.L.2019, c.516, s.2)

41

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

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

45 "Affiliate" means an entity that directly or indirectly controls, is  
46 under common control with, or is controlled by the business.  
47 Control exists in all cases in which the entity is a member of a  
48 controlled group of corporations as defined pursuant to section 1563

1 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the  
2 entity is an organization in a group of organizations under common  
3 control as defined pursuant to subsection (b) or (c) of section 414 of  
4 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer  
5 may establish by clear and convincing evidence, as determined by  
6 the Director of the Division of Taxation in the Department of the  
7 Treasury, that control exists in situations involving lesser  
8 percentages of ownership than required by those statutes. An  
9 affiliate of a business may contribute to meeting either the qualified  
10 investment or full-time employee requirements of a business that  
11 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-  
12 209).

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

15 "Aviation district" means all areas within the boundaries of the  
16 "Atlantic City International Airport," established pursuant to section  
17 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation  
18 Administration William J. Hughes Technical Center and the area  
19 within a one-mile radius of the outermost boundary of the "Atlantic  
20 City International Airport" and the Federal Aviation Administration  
21 William J. Hughes Technical Center.

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

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

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

29 a partnership;

30 an S corporation;

31 a limited liability company; or

32 a non-profit corporation.

33 If the business or tenant is a cooperative or part of a cooperative,  
34 then the cooperative may qualify for credits by counting the full-  
35 time employees and capital investments of its member  
36 organizations, and the cooperative may distribute credits to its  
37 member organizations. If the business or tenant is a cooperative  
38 that leases to its member organizations, the lease shall be treated as  
39 a lease to an affiliate or affiliates.

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

43 "Capital investment" in a qualified business facility means  
44 expenses by a business or any affiliate of the business incurred after  
45 application for:

46 a. site preparation and construction, repair, renovation,  
47 improvement, equipping, or furnishing on real property or of a  
48 building, structure, facility, or improvement to real property;

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

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

10 d. any of the foregoing.

11 In addition to the foregoing, in a Garden State Growth Zone, the  
12 following qualify as a capital investment: any development,  
13 redevelopment, and relocation costs, including, but not limited to,  
14 site acquisition if made within 24 months of application to the  
15 authority, engineering, legal, accounting, and other professional  
16 services required; and relocation, environmental remediation, and  
17 infrastructure improvements for the project area, including, but not  
18 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or  
19 sidewalk construction or repair.

20 In addition to the foregoing, if a business acquires or leases a  
21 qualified business facility, the capital investment made or acquired  
22 by the seller or owner, as the case may be, if pertaining primarily to  
23 the premises of the qualified business facility, shall be considered a  
24 capital investment by the business and, if pertaining generally to the  
25 qualified business facility being acquired or leased, shall be  
26 allocated to the premises of the qualified business facility on the  
27 basis of the gross leasable area of the premises in relation to the  
28 total gross leasable area in the qualified business facility. The  
29 capital investment described herein may include any capital  
30 investment made or acquired within 24 months prior to the date of  
31 application so long as the amount of capital investment made or  
32 acquired by the business, any affiliate of the business, or any owner  
33 after the date of application equals at least 50 percent of the amount  
34 of capital investment, allocated to the premises of the qualified  
35 business facility being acquired or leased on the basis of the gross  
36 leasable area of the premises in relation to the total gross leasable  
37 area in the qualified business facility made or acquired prior to the  
38 date of application.

39 "College or university" means a county college, an independent  
40 institution of higher education, a public research university, or a  
41 State college.

42 "Commitment period" means the period of time that is 1.5 times  
43 the eligibility period.

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

47 "Deep poverty pocket" means a population census tract having a  
48 poverty level of 20 percent or more, and which is located within the

1 qualified incentive area and has been determined by the authority to  
2 be an area appropriate for development and in need of economic  
3 development incentive assistance.

4 "Disaster recovery project" means a project located on property  
5 that has been wholly or substantially damaged or destroyed as a  
6 result of a federally-declared disaster which, after utilizing all  
7 disaster funds available from federal, State, county, and local  
8 funding sources, demonstrates to the satisfaction of the authority  
9 that access to additional funding authorized pursuant to the "New  
10 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161  
11 (C.52:27D-489p et al.), is necessary to complete the redevelopment  
12 project, and which is located within the qualified incentive area and  
13 has been determined by the authority to be in an area appropriate  
14 for development and in need of economic development incentive  
15 assistance.

16 "Distressed municipality" means a municipality that is qualified  
17 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a  
18 municipality under the supervision of the Local Finance Board  
19 pursuant to the provisions of the "Local Government Supervision  
20 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality  
21 identified by the Director of the Division of Local Government  
22 Services in the Department of Community Affairs to be facing  
23 serious fiscal distress, a SDA municipality, or a municipality in  
24 which a major rail station is located.

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

29 "Eligibility period" means the period in which a business may  
30 claim a tax credit under the Grow New Jersey Assistance Program,  
31 beginning with the tax period in which the authority accepts  
32 certification of the business that it has met the capital investment  
33 and employment requirements of the Grow New Jersey Assistance  
34 Program and extending thereafter for a term of not more than 10  
35 years, with the term to be determined solely at the discretion of the  
36 applicant.

37 "Eligible position" or "full-time job" means a full-time position  
38 in a business in this State, which position the business has filled  
39 with a full-time employee, who shall have their primary office at  
40 the qualified business facility and spend at least 60 percent of their  
41 time at the qualified business facility. This requirement shall  
42 supersede any law, regulation, or incentive agreement that imposes  
43 a requirement that the employee be present at the qualified business  
44 facility for a specified percentage of time greater than 60 percent.  
45 This amendment shall not alter or terminate any waiver of the  
46 requirement that an employee spend time at the qualified business  
47 facility implemented by the authority due to COVID-19 public  
48 health emergency and state of emergency.

1 "Full-time employee" means a person:

2 a. who is employed by a business for consideration for at least  
3 35 hours a week, or who renders any other standard of service  
4 generally accepted by custom or practice as full-time employment;  
5 or

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

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

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

27 With respect to a logistics, manufacturing, energy, defense,  
28 aviation, or maritime business, excluding primarily warehouse or  
29 distribution operations, located in a port district having a container  
30 terminal:

31 the requirement that employee health benefits are to be provided  
32 shall be deemed to be satisfied if the benefits are provided in  
33 accordance with industry practice by a third party obligated to  
34 provide such benefits pursuant to a collective bargaining agreement;

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

38 35 hours of employment per week at a qualified business facility  
39 shall constitute one "full-time employee," regardless of whether or  
40 not the hours of work were performed by one or more persons.

41 For any project located in a Garden State Growth Zone which  
42 qualifies under the "Municipal Rehabilitation and Economic  
43 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any  
44 project located in the Atlantic City Tourism District as established  
45 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated  
46 by the Casino Reinvestment Development Authority, and which  
47 will include a retail facility of at least 150,000 square feet, of which  
48 at least 50 percent will be occupied by either a full-service



1 supermarket or grocery store, 30 hours of employment per week at a  
2 qualified business facility shall constitute one "full-time employee,"  
3 regardless of whether the hours of work were performed by one or  
4 more persons, and the requirement that employee health benefits are  
5 to be provided shall be deemed to be satisfied if the employees of  
6 the business are covered by a collective bargaining agreement.

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

9 Full-time employee shall also not include any person who at the  
10 time of project application works in New Jersey for consideration  
11 for at least 35 hours per week, or who renders any other standard of  
12 service generally accepted by custom or practice as full-time  
13 employment but who prior to project application was not provided,  
14 by the business, with employee health benefits under a health  
15 benefits plan authorized pursuant to State or federal law.

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

21 "Garden State Growth Zone" or "growth zone" means the four  
22 New Jersey cities with the lowest median family income based on  
23 the 2009 American Community Survey from the US Census, (Table  
24 708. Household, Family, and Per Capita Income and Individuals,  
25 and Families Below Poverty Level by City: 2009); a municipality  
26 which contains a Tourism District as established pursuant to section  
27 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino  
28 Reinvestment Development Authority; or an aviation district.

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

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

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

43 "Independent institution of higher education" means a college or  
44 university incorporated and located in New Jersey, which by virtue  
45 of law or character or license is a nonprofit educational institution  
46 authorized to grant academic degrees and which provides a level of  
47 education which is equivalent to the education provided by the  
48 State's public institutions of higher education, as attested by the

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

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

12 "Mega project" means:

13 a. a qualified business facility located in a port district housing  
14 a business in the logistics, manufacturing, energy, defense, or  
15 maritime industries, either:

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

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

21 b. a qualified business facility located in an aviation district  
22 housing a business in the aviation industry, in a Garden State  
23 Growth Zone, or in a priority area housing the United States  
24 headquarters and related facilities of an automobile manufacturer,  
25 either:

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

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

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

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

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

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

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

6 "Minimum environmental and sustainability standards" means  
7 standards established by the authority in accordance with the green  
8 building manual prepared by the Commissioner of Community  
9 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),  
10 regarding the use of renewable energy, energy-efficient technology,  
11 and non-renewable resources in order to reduce environmental  
12 degradation and encourage long-term cost reduction.

13 "Moderate-income housing" means housing affordable,  
14 according to United States Department of Housing and Urban  
15 Development or other recognized standards for home ownership  
16 and rental costs, and occupied or reserved for occupancy by  
17 households with a gross household income equal to more than 50  
18 percent but less than 80 percent of the median gross household  
19 income for households of the same size within the housing region in  
20 which the housing is located.

21 "Municipal Revitalization Index" means the 2007 index by the  
22 Office for Planning Advocacy within the Department of State  
23 measuring or ranking municipal distress.

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

29 "Other eligible area" means the portions of the qualified  
30 incentive area that are not located within a distressed municipality,  
31 or the priority area.

32 "Partnership" means an entity classified as a partnership for  
33 federal income tax purposes.

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

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

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

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

46 a. are designated pursuant to the "State Planning Act,"  
47 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1  
48 (Metropolitan), Planning Area 2 (Suburban), a designated center

1 under the State Development and Redevelopment Plan, or a  
2 designated growth center in an endorsed plan until June 30, 2013, or  
3 until the State Planning Commission revises and readopts New  
4 Jersey's State Strategic Plan and adopts regulations to revise this  
5 definition;

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

9 c. are the proposed site of a disaster recovery project, a  
10 qualified incubator facility, a highlands development credit  
11 receiving area or redevelopment area, a tourism destination project,  
12 or transit oriented development; or

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

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

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

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

26 "Qualified business facility" means any building, complex of  
27 buildings or structural components of buildings, and all machinery  
28 and equipment located within a qualified incentive area, used in  
29 connection with the operation of a business that is not engaged in  
30 final point of sale retail business at that location unless the building,  
31 complex of buildings or structural components of buildings, and all  
32 machinery and equipment located within a qualified incentive area,  
33 are used in connection with the operation of:

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

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

41 "Qualified incentive area" means:

42 a. an aviation district;

43 b. a port district;

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

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

47 (a) Planning Area 1 (Metropolitan);

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

- 1 (c) Planning Area 3 (Fringe Planning Area);
- 2 (2) located within a smart growth area and planning area
- 3 designated in a master plan adopted by the New Jersey
- 4 Meadowlands Commission pursuant to subsection (i) of section 6 of
- 5 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
- 6 adopted by the New Jersey Meadowlands Commission pursuant to
- 7 section 20 of P.L.1968, c.404 (C.13:17-21);
- 8 (3) located within any land owned by the New Jersey Sports and
- 9 Exposition Authority, established pursuant to P.L.1971, c.137
- 10 (C.5:10-1 et seq.), within the boundaries of the Hackensack
- 11 Meadowlands District as delineated in section 4 of P.L.1968, c.404
- 12 (C.13:17-4);
- 13 (4) located within a regional growth area, rural development
- 14 area zoned for industrial use as of the effective date of P.L.2016,
- 15 c.75, town, village, or a military and federal installation area
- 16 designated in the comprehensive management plan prepared and
- 17 adopted by the Pinelands Commission pursuant to the "Pinelands
- 18 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 19 (5) located within the planning area of the Highlands Region as
- 20 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
- 21 development credit receiving area or redevelopment area;
- 22 (6) located within a Garden State Growth Zone;
- 23 (7) located within land approved for closure under any federal
- 24 Commission on Base Realignment and Closure action; or
- 25 (8) located only within the following portions of the areas
- 26 designated pursuant to the "State Planning Act," P.L.1985, c.398
- 27 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
- 28 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
- 29 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
- 30 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
- 31 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
- 32 located within:
  - 33 (a) a designated center under the State Development and
  - 34 Redevelopment Plan;
  - 35 (b) a designated growth center in an endorsed plan until the
  - 36 State Planning Commission revises and readopts New Jersey's State
  - 37 Strategic Plan and adopts regulations to revise this definition as it
  - 38 pertains to Statewide planning areas;
  - 39 (c) any area determined to be in need of redevelopment pursuant
  - 40 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
  - 41 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
  - 42 P.L.1992, c.79 (C.40A:12A-14);
  - 43 (d) any area on which a structure exists or previously existed
  - 44 including any desired expansion of the footprint of the existing or
  - 45 previously existing structure provided the expansion otherwise
  - 46 complies with all applicable federal, State, county, and local
  - 47 permits and approvals;

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

4 (f) any area on which an existing tourism destination project is  
5 located.

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

9 "Qualified incubator facility" means a commercial building  
10 located within a qualified incentive area: which contains 50,000 or  
11 more square feet of office, laboratory, or industrial space; which is  
12 located near, and presents opportunities for collaboration with, a  
13 research institution, teaching hospital, college, or university; and  
14 within which, at least 50 percent of the gross leasable area is  
15 restricted for use by one or more technology startup companies  
16 during the commitment period.

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

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

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

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

44 "Targeted industry" means any industry identified from time to  
45 time by the authority which shall initially include advanced  
46 transportation and logistics, advanced manufacturing, aviation,  
47 autonomous vehicle and zero-emission vehicle research or  
48 development, clean energy, life sciences, hemp processing,

1 information and high technology, finance and insurance,  
2 professional services, film and digital media, non-retail food and  
3 beverage businesses including food innovation, and other  
4 innovative industries that disrupt current technologies or business  
5 models.

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

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

20 "Transit oriented development" means a qualified business  
21 facility located within a 1/2-mile radius, or one-mile radius for  
22 projects located in a Garden State Growth Zone, surrounding the  
23 mid-point of a New Jersey Transit Corporation, Port Authority  
24 Transit Corporation, or Port Authority Trans-Hudson Corporation  
25 rail, bus, or ferry station platform area, including all light rail  
26 stations.

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

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

40 (cf: P.L.2020, c.156, s.120)

41

42 62. Section 2 of P.L.2007, c.346 (C.34:1B-208) is amended to  
43 read as follows:

44 2. As used in this act:

45 "Affiliate" means an entity that directly or indirectly controls, is  
46 under common control with, or is controlled by the business.  
47 Control exists in all cases in which the entity is a member of a  
48 controlled group of corporations as defined pursuant to section 1563

1 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the  
2 entity is an organization in a group of organizations under common  
3 control as defined pursuant to subsection (b) or (c) of section 414 of  
4 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer  
5 may establish by clear and convincing evidence, as determined by  
6 the Director of the Division of Taxation in the Department of the  
7 Treasury, that control exists in situations involving lesser  
8 percentages of ownership than required by those statutes. An  
9 affiliate of a business may contribute to meeting either the qualified  
10 investment or full-time employee requirements of a business that  
11 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-  
12 209).

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

15 "Business" means a corporation that is subject to the tax imposed  
16 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a  
17 corporation that is subject to the tax imposed pursuant to sections 2  
18 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of  
19 P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, or is a partnership,  
20 an S corporation, or a limited liability corporation. A business shall  
21 include an affiliate of the business if that business applies for a  
22 credit based upon any capital investment made by or full-time  
23 employees of an affiliate.

24 "Capital investment" in a qualified business facility means  
25 expenses incurred after, but before the end of the eighth year after,  
26 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) for: a.  
27 the site preparation and construction, repair, renovation,  
28 improvement, equipping, or furnishing of a building, structure,  
29 facility or improvement to real property; and b. obtaining and  
30 installing furnishings and machinery, apparatus or equipment for  
31 the operation of a business in a building, structure, facility or  
32 improvement to real property.

33 "Eligible municipality" means a municipality: (1) which qualifies  
34 for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) or  
35 which was continued to be a qualified municipality thereunder  
36 pursuant to P.L.2007, c.111; and (2) in which 30 percent or more of  
37 the value of real property was exempt from local property taxation  
38 during tax year 2006. The percentage of exempt property shall be  
39 calculated by dividing the total exempt value by the sum of the net  
40 valuation which is taxable and that which is tax exempt.

41 "Full-time employee" means a person employed by the business  
42 for consideration for at least 35 hours a week, or who renders any  
43 other standard of service generally accepted by custom or practice  
44 as full-time employment, or a person who is employed by a  
45 professional employer organization pursuant to an employee leasing  
46 agreement between the business and the professional employer  
47 organization, in accordance with P.L.2001, c.260 (C.34:8-67 et  
48 seq.) for at least 35 hours a week, or who renders any other standard



1 of service generally accepted by custom or practice as full-time  
2 employment, and whose wages are subject to withholding as  
3 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
4 et seq. or an employee who is a resident of another State but whose  
5 income is not subject to the "New Jersey Gross Income Tax Act,"  
6 N.J.S.54A:1-1 et seq. or who is a partner of a business who works  
7 for the partnership for at least 35 hours a week, or who renders any  
8 other standard of service generally accepted by custom or practice  
9 as full-time employment, and whose distributive share of income,  
10 gain, 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. "Full-time employee" shall not include any person who  
14 works as an independent contractor or on a consulting basis for the  
15 business.

16 "Full-time employee at the qualified business facility" means a  
17 full-time position in a business in this State, which position the  
18 business has filled with a full-time employee, who shall have their  
19 primary office at the qualified business facility and spend at least 60  
20 percent of their time at the qualified business facility. This  
21 requirement shall supersede any law, regulation, or incentive  
22 agreement that imposes a requirement that the employee be present  
23 at the qualified business facility for a specified percentage of time  
24 greater than 60 percent. This amendment shall not alter or  
25 terminate any waiver of the requirement that an employee spend  
26 time at the qualified business facility implemented by the authority  
27 due to COVID-19 public health emergency and state of emergency.

28 "Mixed use project" means a project comprising both a qualified  
29 business facility and a qualified residential project.

30 "Partnership" means an entity classified as a partnership for  
31 federal income tax purposes.

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

35 "Qualified business facility" means any building, complex of  
36 buildings or structural components of buildings, and all machinery  
37 and equipment located within a designated urban transit hub in an  
38 eligible municipality, used in connection with the operation of a  
39 business.

40 "Qualified residential project" shall have the meaning ascribed to  
41 that term under section 34 of P.L.2009, c.90 (C.34:1B-209.2).

42 "Residential unit" means a residential dwelling unit such as a  
43 rental apartment, a condominium or cooperative unit, a hotel room,  
44 or a dormitory room.

45 "Urban transit hub" means:

46 a. (1) property located within a 1/2-mile radius surrounding the  
47 mid point of a New Jersey Transit Corporation, Port Authority

1 Transit Corporation or Port Authority Trans-Hudson Corporation  
2 rail station platform area, including all light rail stations, and

3 (2) property located within a one-mile radius of the mid point of  
4 the platform area of such a rail station if the property is in a  
5 qualified municipality under the "Municipal Rehabilitation and  
6 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.) or  
7 in an area that is the subject of a Choice Neighborhoods  
8 Transformation Plan funded by the federal Department of Housing  
9 and Urban Development, and

10 (3) the site of the campus of an acute care medical facility  
11 located within a one-mile radius of the mid point of the platform  
12 area of such a rail station, and

13 (4) the site of a closed hospital located within a one-mile radius  
14 of the mid point of the platform area of such a rail station;

15 b. property located within a 1/2-mile radius surrounding the  
16 mid point of one of up to two underground light rail stations'  
17 platform areas that are most proximate to an interstate rail station;

18 c. property adjacent to, or connected by rail spur to, a freight  
19 rail line if the business utilizes that freight line at any rail spur  
20 located adjacent to or within a one-mile radius surrounding the  
21 entrance to the property for loading and unloading freight cars on  
22 trains;

23 which property shall have been specifically delineated by the  
24 authority pursuant to subsection e. of section 3 of P.L.2007, c.346  
25 (C.34:1B-209).

26 A property which is partially included within the radius shall  
27 only be considered part of the urban transit hub if over 50 percent  
28 of its land area falls within the radius.

29 "Rail station" shall not include any rail station located at an  
30 international airport, except that any property within a 1/2-mile  
31 radius surrounding the mid point of a New Jersey Transit  
32 Corporation rail station platform area at an international airport  
33 upon which a qualified business facility is constructed or renovated  
34 commencing after the effective date of P.L.2011, c.149 (C.34:1B-  
35 242 et al.) shall be deemed an urban transit hub, excluding any  
36 property owned or controlled by the Port Authority of New York  
37 and New Jersey.

38 (cf: P.L.2011, c.149, s.10)

39

40 63. Section 2 of P.L.1996, c.26 (C.34:1B-125) is amended to  
41 read as follows:

42 2. As used in sections 1 through 17 of P.L.1996, c.26  
43 (C.34:1B-124 et seq.) and in sections 9 through 11 of P.L.2003,  
44 c.166 (C.34:1B-139.1 through C.34:1B-139.3), unless a different  
45 meaning clearly appears from the context:

46 "Advanced computing" means a technology used in the  
47 designing and developing of computing hardware and software,  
48 including innovations in designing the full spectrum of hardware

1 from hand-held calculators to super computers, and peripheral  
2 equipment.

3 "Advanced computing company" means a person, whose  
4 headquarters or base of operations is located in New Jersey,  
5 engaged in the research, development, production, or provision of  
6 advanced computing for the purpose of developing or providing  
7 products or processes for specific commercial or public purposes.

8 "Advanced materials" means materials with engineered  
9 properties created through the development of specialized  
10 processing and synthesis technology, including ceramics, high  
11 value-added metals, electronic materials, composites, polymers, and  
12 biomaterials. "Advanced materials company" means a person,  
13 whose headquarters or base of operations is located in New Jersey,  
14 engaged in the research, development, production, or provision of  
15 advanced materials for the purpose of developing or providing  
16 products or processes for specific commercial or public purposes.

17 "Application year" means the grant year for which an eligible  
18 partnership submits the information required under section 8 of  
19 P.L.1996, c.26 (C.34:1B-131).

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

23 "Base years" means the first two complete calendar years  
24 following the effective date of an agreement.

25 "Biotechnology" means the continually expanding body of  
26 fundamental knowledge about the functioning of biological systems  
27 from the macro level to the molecular and sub-atomic levels, as  
28 well as novel products, services, technologies, and sub-technologies  
29 developed as a result of insights gained from research advances  
30 which add to that body of fundamental knowledge.

31 "Biotechnology company" means a person, whose headquarters  
32 or base of operations is located in New Jersey, engaged in the  
33 research, development, production, or provision of biotechnology  
34 for the purpose of developing or providing products or processes for  
35 specific commercial or public purposes, including but not limited  
36 to, medical, pharmaceutical, nutritional, and other health-related  
37 purposes, agricultural purposes, and environmental purposes, or a  
38 person, whose headquarters or base of operations is located in New  
39 Jersey, engaged in providing services or products necessary for  
40 such research, development, production, or provision.

41 "Bonds" means bonds, notes, or other obligations issued by the  
42 authority pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.).

43 "Business" means a corporation; sole proprietorship; partnership;  
44 corporation that has made an election under Subchapter S of  
45 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or  
46 any other business entity through which income flows as a  
47 distributive share to its owners; limited liability company; nonprofit  
48 corporation; or any other form of business organization located

1 either within or outside this State. A grant received under  
2 P.L.1996, c.26 (C.34:1B-124 et seq.) by a partnership, Subchapter  
3 S-Corporation, or other business entity shall be apportioned among  
4 the persons to whom the income or profit of the partnership,  
5 Subchapter S-Corporation, or other entity is distributed, in the same  
6 proportions as those in which the income or profit is distributed.

7 "Business employment incentive agreement" or "agreement"  
8 means the written agreement between the authority and a business  
9 proposing a project in this State in accordance with the provisions  
10 of P.L.1996, c.26 (C.34:1B-124 et seq.) which establishes the terms  
11 and conditions of a grant to be awarded pursuant to P.L.1996, c.26  
12 (C.34:1B-124 et seq.).

13 "Designated industry" means a business engaged in the field of  
14 biotechnology, pharmaceuticals, financial services, transportation  
15 and logistics, advanced computing, advanced materials, electronic  
16 device technology, environmental technology, or medical device  
17 technology.

18 "Director" means the Director of the Division of Taxation.

19 "Division" means the Division of Taxation in the Department of  
20 the Treasury.

21 "Electronic device technology" means a technology involving  
22 microelectronics, semiconductors, electronic equipment, and  
23 instrumentation, radio frequency, microwave, and millimeter  
24 electronics, and optical and optic-electrical devices, or data and  
25 digital communications and imaging devices.

26 "Electronic device technology company" means a person, whose  
27 headquarters or base of operations is located in New Jersey,  
28 engaged in the research, development, production, or provision of  
29 electronic device technology for the purpose of developing or  
30 providing products or processes for specific commercial or public  
31 purposes.

32 "Eligible partnership" means a partnership or limited liability  
33 company that is qualified to receive a grant as established in  
34 P.L.1996, c.26 (C.34:1B-124 et seq.).

35 "Eligible position" is a new full-time position created by a  
36 business in New Jersey or transferred from another state by the  
37 business under the terms and conditions set forth in P.L.1996, c.26  
38 (C.34:1B-124 et seq.) during the base years or in subsequent years  
39 of a grant. In determining if positions are eligible positions, the  
40 authority shall give greater consideration to positions that average  
41 at least 1.5 times the minimum hourly wage during the term of an  
42 agreement authorized pursuant to P.L.1996, c.26 (C.34:1B-124 et  
43 seq.). For grants awarded on or after July 1, 2003, eligible position  
44 includes only a position for which a business provides employee  
45 health benefits under a group health plan as defined under section  
46 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as  
47 defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a  
48 policy or contract of health insurance covering more than one

1 person issued pursuant to Article 2 of Title 17B of the New Jersey  
2 Statutes. An "eligible position" shall also include all current and  
3 future partners or members of a partnership or limited liability  
4 company created by a business in New Jersey or transferred from  
5 another state by the business pursuant to the conditions set forth in  
6 P.L.1996, c.26 (C.34:1B-124 et seq.) during the base years or in  
7 subsequent years of a grant. An "eligible position" shall also  
8 include a position occupied by a resident of this State whose  
9 position is relocated to this State from another state but who does  
10 not qualify as a "new employee" because prior to relocation the  
11 resident's wages or the resident's distributive share of income from  
12 a gain, from a loss or deduction, or the resident's guaranteed  
13 payments or any combination thereof, prior to the relocation, were  
14 not subject to income taxes imposed by the state or municipality in  
15 which the position was previously located. An "eligible position"  
16 shall also include a position occupied by a resident of another State  
17 whose position is relocated to this State but whose income is not  
18 subject to the New Jersey gross income tax pursuant to the "New  
19 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. An "eligible  
20 position" shall not include any position located within New Jersey,  
21 which, within a period either three months prior to the business'  
22 application for a grant under P.L.1996, c.26 (C.34:1B-124 et seq.)  
23 or six months after the date of application, ceases to exist or be  
24 located within New Jersey.

25 "Employment incentive" means the amount of a grant, either in  
26 cash or in tax credits, determined pursuant to subsection a. of  
27 section 6 of P.L.1996, c.26 (C.34:1B-129).

28 "Environmental technology" means assessment and prevention of  
29 threats or damage to human health or the environment,  
30 environmental cleanup, or the development of alternative energy  
31 sources.

32 "Environmental technology company" means a person, whose  
33 headquarters or base of operations is located in New Jersey,  
34 engaged in the research, development, production, or provision of  
35 environmental technology for the purpose of developing or  
36 providing products or processes for specific commercial or public  
37 purposes.

38 "Estimated tax" means an amount calculated for a partner in an  
39 eligible position equal to 6.37 percent of the lesser of: a. the amount  
40 of the partner's net income from the eligible partnership that is  
41 sourced to New Jersey as reflected in Column B of the partner's  
42 Schedule NJK-1 of the application year less the amount of the  
43 partner's net income from the eligible partnership that is sourced to  
44 New Jersey as reflected in column B of the partner's Schedule NJK-  
45 1 in the foundation year; or b. the net of all items of partnership  
46 income upon which tax has been paid as reflected on the partner's  
47 New Jersey Gross Income Tax return in the application year.

1 "Foundation year" means the year immediately prior to the  
2 creation of the eligible position.

3 "Full-time employee" means a person who is employed for  
4 consideration for at least 35 hours a week, or who renders any other  
5 standard of service generally accepted by custom or practice as full-  
6 time employment, whose wages are subject to withholding as  
7 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
8 et seq., and who is determined by the authority to be employed in a  
9 permanent position according to criteria it develops, or who is a  
10 partner of an eligible partnership, who works for the partnership for  
11 at least 35 hours a week, or who renders any other standard of  
12 service generally accepted by custom or practice as full-time  
13 employment, and whose distributive share of income, gain, loss, or  
14 deduction, or whose guaranteed payments, or any combination  
15 thereof, is subject to the payment of estimated taxes, as provided in  
16 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.  
17 "Full-time employee" shall not include any person who works as an  
18 independent contractor or on a consulting basis for the business.

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

31 "Grant" means a business employment incentive grant as  
32 established in P.L.1996, c.26 (C.34:1B-124 et seq.).

33 "Medical device technology" means a technology involving any  
34 medical equipment or product, other than a pharmaceutical product,  
35 that has therapeutic value, diagnostic value, or both, and is  
36 regulated by the federal Food and Drug Administration.

37 "Medical device technology company" means a person, whose  
38 headquarters or base of operations is located in New Jersey,  
39 engaged in the research, development, production, or provision of  
40 medical device technology for the purpose of developing or  
41 providing products or processes for specific commercial or public  
42 purposes.

43 "Net income from the eligible partnership" means the net  
44 combination of a partner's distributive share of the eligible  
45 partnership's income, gain, loss, deduction, or guaranteed payments.

46 "New employee" means a full-time employee first employed in  
47 an eligible position on the project which is the subject of an  
48 agreement or who is a partner of an eligible partnership, who works

1 for the partnership for at least 35 hours a week, or who renders any  
2 other standard of service generally accepted by custom or practice  
3 as full-time employment, and whose distributive share of income,  
4 gain, loss or deduction, or whose guaranteed payments, or any  
5 combination thereof, is subject to the payment of estimated taxes, as  
6 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
7 et seq.; except that a New Jersey resident whose position is  
8 relocated to this State shall not be classified as a "new employee"  
9 unless the employee's wages, or the employee's distributive share of  
10 income from a gain, from a loss or deduction, or the employee's  
11 guaranteed payments or any combination thereof, prior to the  
12 relocation, were subject to income taxes imposed by the state or  
13 municipality in which the position was previously located. "New  
14 employee" may also include an employee rehired or called back  
15 from a layoff during or following the base years to a vacant position  
16 previously held by that employee or to a new position established  
17 during or following the base years. "New employee" shall not  
18 include any employee who was previously employed in New Jersey  
19 by the business or by a related person as defined in section 2 of  
20 P.L.1993, c.170 (C.54:10A-5.5) if the employee is transferred to the  
21 business, which is the subject of an agreement, unless the  
22 employee's position at the employee's previous employer is filled by  
23 a new employee. "New employee" also shall not include a child,  
24 grandchild, parent, or spouse of an individual associated with the  
25 business who has direct or indirect ownership of at least 15 percent  
26 of the profits, capital, or value of the business. New employee shall  
27 also include an employee whose position is relocated to this State  
28 but whose income is not subject to the New Jersey gross income tax  
29 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
30 et seq.

31 "Partner" means a person who is entitled to either a distributive  
32 share of a partnership's income, gain, loss, or deduction, or  
33 guaranteed payments, or any combination thereof, by virtue of  
34 holding an interest in the partnership. "Partner" also includes a  
35 person who is a member of a limited liability company which is  
36 treated as a partnership, as provided in the "New Jersey Gross  
37 Income Tax Act," N.J.S.54A:1-1 et seq.

38 "Refunding Bonds" means bonds, notes or other obligations  
39 issued to refinance bonds, notes or other obligations previously  
40 issued by the authority pursuant to the provisions of P.L.1996, c.26  
41 (C.34:1B-124 et seq.).

42 "Residual withholdings" means for any period of time, the excess  
43 of the estimated cumulative withholdings for all executed  
44 agreements eligible for payments under P.L.1996, c.26 (C.34:1B-  
45 124 et seq.) over the cumulative anticipated grant amounts.

46 "Schedule NJK-1" means Schedule NJK-1 as the form existed for  
47 taxable year 1997.

1 "Withholdings" means the amount withheld by a business from  
2 the wages of new employees or estimated taxes paid by, or on  
3 behalf of, partners that are new employees, or any combination  
4 thereof, pursuant to the "New Jersey Gross Income Tax Act,"  
5 N.J.S.54A:1-1 et seq., and, if the new employee is an employee  
6 whose position has moved to New Jersey but whose income is not  
7 subject to the New Jersey gross income tax pursuant to  
8 N.J.S.54A:1-1 et seq., the amount of withholding that would occur  
9 if the employee were to move to New Jersey.  
10 (cf: P.L.2015, c.194, s.1)

11

12 64. Section 2 of P.L.1996, c.25 (C.34:1B-113) is amended to  
13 read as follows:

14 2. As used in this act:

15 "Affiliate" means an entity that directly or indirectly controls, is  
16 under common control with, or is controlled by the business.  
17 Control exists in all cases in which the entity is a member of a  
18 controlled group of corporations as defined pursuant to section 1563  
19 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the  
20 entity is an organization in a group of organizations under common  
21 control as defined pursuant to subsection (b) or (c) of section 414 of  
22 the Internal Revenue Code of 1986 (26 U.S.C. s.414). An entity  
23 may establish by clear and convincing evidence, as determined by  
24 the Director of the Division of Taxation in the Department of the  
25 Treasury, that control exists in situations involving lesser  
26 percentages of ownership than required by those statutes;

27 "Authority" means the New Jersey Economic Development  
28 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

29 "Business retention or relocation grant of tax credits" or "grant of  
30 tax credits" means a grant which consists of the value of  
31 corporation business tax credits against the liability imposed  
32 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits  
33 against the taxes imposed on insurers pursuant to P.L.1945, c.132  
34 (C.54:18A-1 et al.), section 1 of P.L.1950, c.231 (C.17:32-15), and  
35 N.J.S.17B:23-5, provided to fund a portion of retention and  
36 relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

37 "Business" means an employer located in this State that has  
38 operated continuously in the State, in whole or in part, in its current  
39 form or as a predecessor entity for at least 10 years prior to filing an  
40 application pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) and  
41 which is subject to the provisions of R.S.43:21-1 et seq. and may  
42 include a sole proprietorship, a partnership, or a corporation that  
43 has made an election under Subchapter S of Chapter One of Subtitle  
44 A of the Internal Revenue Code of 1986, or any other business  
45 entity through which income flows as a distributive share to its  
46 owners, limited liability company, nonprofit corporation, or any  
47 other form of business organization located either within or outside  
48 the State. A business shall include an affiliate of the business if that



1 business applies for a credit based upon any capital investment  
2 made by an affiliate or based upon retained full-time jobs of an  
3 affiliate;

4 "Capital investment" means expenses that the business incurs  
5 following its submission of an application to the authority pursuant  
6 to section 5 of P.L.1996, c.25 (C.34:1B-116), but prior to the  
7 Capital Investment Completion Date, as shall be defined in the  
8 project agreement, for: (1) the site preparation and construction,  
9 renovation, improvement, equipping of, or obtaining and installing  
10 fixtures and machinery, apparatus or equipment in, a newly  
11 constructed, renovated or improved building, structure, facility, or  
12 improvement to real property in this State; and (2) obtaining and  
13 installing fixtures and machinery, apparatus or equipment in a  
14 building, structure, or facility in this State. Provided however, that  
15 "capital investment" shall not include soft costs such as financing  
16 and design, furniture or decorative items such as artwork or plants,  
17 or office equipment if the office equipment is property with a  
18 recovery period of less than five years. The recovery period of any  
19 property, for purposes of this section, shall be determined as of the  
20 date such property is first placed in service or use in this State by  
21 the business, determined in accordance with section 168 of the  
22 federal Internal Revenue Code of 1986 (26 U.S.C. s.168). A  
23 business that acquires or leases a qualified business facility shall  
24 also be deemed to have acquired the capital investment made or  
25 acquired by the seller or landlord, as the case may be;

26 "Certificate of compliance" means a certificate issued by the  
27 authority pursuant to section 9 of P.L.1996, c.25 (C.34:1B-120);

28 "Chief executive officer" means the chief executive officer of the  
29 New Jersey Economic Development Authority;

30 "Commitment duration" means the tax credit term and five years  
31 from the end of the tax credit term specified in the project  
32 agreement entered into pursuant to section 5 of P.L.1996, c.25  
33 (C.34:1B-116);

34 "Designated industry" means an industry identified by the  
35 authority as desirable for the State to maintain, which may be  
36 designated and amended via the promulgation of rules by the  
37 authority to reflect changing market conditions;

38 "Designated urban center" means an urban center designated in  
39 the State Development and Redevelopment Plan adopted by the  
40 State Planning Commission;

41 "Eligible position" means a full-time position retained by a  
42 business in this State for which a business provides employee health  
43 benefits under a group health plan as defined under section 14 of  
44 P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined  
45 under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or  
46 contract of health insurance covering more than one person issued  
47 pursuant to Article 2 of Chapter 27 of Title 17B of the New Jersey  
48 Statutes;

1 "Full-time employee" means a person employed by the business  
2 for consideration for at least 35 hours a week, or who renders any  
3 other standard of service generally accepted by custom or practice,  
4 as determined by the authority, as full-time employment, or a  
5 person who is employed by a professional employer organization  
6 pursuant to an employee leasing agreement between the business  
7 and the professional employer organization, in accordance with  
8 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or  
9 who renders any other standard of service generally accepted by  
10 custom or practice, as determined by the authority, as full-time  
11 employment, and whose wages are subject to withholding as  
12 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
13 et seq. or an employee who is a resident of another State but whose  
14 income is not subject to the "New Jersey Gross Income Tax Act,"  
15 N.J.S.54A:1-1 et seq. or who is a partner of a business who works  
16 for the partnership for at least 35 hours a week, or who renders any  
17 other standard of service generally accepted by custom or practice,  
18 as determined by the authority, as full-time employment, and whose  
19 distributive share of income, gain, loss, or deduction, or whose  
20 guaranteed payments, or any combination thereof, is subject to the  
21 payment of estimated taxes, as provided in the "New Jersey Gross  
22 Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall  
23 not include any person who works as an independent contractor or  
24 on a consulting basis for the business;

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

37 "New business location" means the premises to which a business  
38 will relocate that the business has either purchased or built or for  
39 which the business has entered into a purchase agreement or a  
40 written lease for a period of no less than the commitment duration  
41 or eight years, whichever is greater, from the date of relocation. A  
42 "new business location" also means the business's current location  
43 or locations if the business makes a capital investment equal to the  
44 total value of the business retention or relocation grant of tax credits  
45 to the business at that location or locations;

46 "Program" means the Business Retention and Relocation  
47 Assistance Grant Program created pursuant to P.L.1996, c.25  
48 (C.34:1B-112 et seq.);

1 "Project agreement" means an agreement between a business and  
2 the authority that sets the forecasted schedule for completion and  
3 occupancy of the project, the date the commitment duration shall  
4 commence, the amount and tax credit term of the applicable grant of  
5 tax credits, and other such provisions which further the purposes of  
6 P.L.1996, c.25 (C.34:1B-112 et seq.);

7 "Retained full-time job" means an eligible position that currently  
8 exists in New Jersey and is filled by a full-time employee but  
9 which, because of a potential relocation by the business, is at risk of  
10 being lost to another state or country. For the purposes of  
11 determining a number of retained full-time jobs, the eligible  
12 positions of an affiliate shall be considered the eligible positions of  
13 the business;

14 "Tax credit term" means the period of time commencing with the  
15 first issuance of tax credits and continuing during the period in  
16 which the recipient of a grant of tax credits is eligible to apply the  
17 tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3);  
18 and

19 "Yearly tax credit amount" means \$1,500 times the number of  
20 retained full-time jobs. "Yearly tax credit amount" does not include  
21 the amount of any bonus award authorized pursuant to section 5 of  
22 P.L.2004, c.65 (C.34:1B-115.1).  
23 (cf: P.L.2011, c.149, s.12)

24

25 65. (New section) Sections 65 through 68 of P.L. ,  
26 c. (C. ) (pending before the Legislature as this bill) shall be  
27 known and may be cited as the "New Jersey Innovation Fellows  
28 Program Act."  
29

30 66. (New section) The Legislature finds and declares that:

31 a. One of the most difficult challenges for upstart entrepreneurs  
32 is forgoing employment to launch their businesses.

33 b. For diverse entrepreneurs from underserved populations, this  
34 challenge is often exacerbated as these entrepreneurs historically  
35 lack funding from family and friends to support their living  
36 expenses while building a business without income.

37 c. Having alternative sources of capital and new ways to  
38 deploy capital to entrepreneurs can be crucial for disadvantaged  
39 entrepreneurs in particular.

40 d. Although many universities provide fellowships for  
41 advancing business ideas, this assistance is often only available to  
42 students, and there is a dearth of programs designed specifically to  
43 support non-student entrepreneurs.

44 e. The New Jersey Economic Development Authority, through  
45 the New Jersey Innovation Fellows Program, shall seek to  
46 consolidate public and private economic development efforts  
47 through various funding sources into one targeted program to invest

1 in diverse talent critical to New Jersey having a vibrant innovation  
2 ecosystem.

3

4 67. (New section) As used in sections 65 through 68 of P.L. ,  
5 c. (C. ) (pending before the Legislature as this bill):

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

9 “Chief executive officer” means the Chief Executive Officer of  
10 the New Jersey Economic Development Authority.

11 “Eligible municipality” means a city of the first class, a  
12 municipality with a private research university, a municipality that  
13 is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-  
14 178 et seq.), a municipality under the supervision of the Local  
15 Finance Board pursuant to the provisions of the "Local Government  
16 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a  
17 municipality identified by the Director of the Division of Local  
18 Government Services in the Department of Community Affairs to  
19 be facing serious fiscal distress, a SDA municipality, or a  
20 municipality in which a major rail station is located.

21 “Entrepreneur” means an individual starting a small business and  
22 who meets the eligibility criteria established by the authority for the  
23 program.

24 “Program” means the New Jersey Innovation Fellows Program,  
25 established pursuant to section 68 of P.L. , c. (C. ) (pending  
26 before the Legislature as this bill).

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

37

38 68. (New section) a. There is established the “New Jersey  
39 Innovation Fellows Program” within the authority for the purpose  
40 of providing seed funding to teams of entrepreneurs, through the  
41 disbursement of fellowship grants, and facilitating economic growth  
42 and job creation in eligible municipalities. The award of a  
43 fellowship grant to a team of entrepreneurs shall be limited to  
44 \$350,000 per team and shall be used as income-replacement for  
45 entrepreneurs who leave the workforce to open and operate a  
46 business in an eligible municipality.

47 b. The chief executive officer shall award fellowship grants  
48 through a competitive grant solicitation to teams of no less than

1 three entrepreneurs, in which at least half of the team members are  
2 first time entrepreneurs, with well-written business plans who:

3 (1) are seeking to open and operate a business in a targeted  
4 industry, which business is located in an eligible municipality;

5 (2) commit to working at the business on a full-time basis for  
6 two years next following receipt of the fellowship grant;

7 (3) participate in a mentorship program; and

8 (4) pay gross income tax pursuant to N.J.S.54A:1-1 et seq. at the  
9 time of applying for the fellowship grant and remain New Jersey  
10 taxpayers during the time in which fellowship grants are disbursed  
11 and the next following two years. If any member of the original  
12 awarded team of entrepreneurs ceases to be a New Jersey taxpayer  
13 during the time in which fellowship grants are disbursed and the  
14 next following two years, the fellowship grant may be rescinded,  
15 and any amount paid may be recouped, by the authority.

16 c. A team of entrepreneurs seeking to participate in the  
17 program shall submit an application in a form determined by the  
18 chief executive officer. The application shall include information  
19 that the chief executive officer determines is necessary to  
20 administer the program.

21 d. The chief executive officer shall award fellowship grants in  
22 intervals determined by the chief executive officer following  
23 application approval and the submission of proof by a team of  
24 entrepreneurs that the team has fulfilled the eligibility requirements  
25 pursuant to subsection b. of this section and any other requirements  
26 determined by the authority. The submission of proof shall be  
27 subject to review and audit by the authority.

28 e. A team of entrepreneurs that includes at least one member  
29 who is a graduate of a New Jersey college or university or is a  
30 diverse entrepreneur, as defined in section 2 of P.L.1997, c.349  
31 (C.54:10A-5.29), and meets the eligibility requirements may receive  
32 a fellowship grant up to \$400,000.

33 f. Within one year of the effective date of P.L. , c. (C. )  
34 (pending before the Legislature as this bill), the authority shall  
35 undertake a disparity study analyzing the relative availability of  
36 seed money and capital for diverse entrepreneurs, as defined in  
37 section 2 of P.L.1997, c.349 (C.54:10A-5.29), in this State and the  
38 authority's historic support of such businesses. If recommended by  
39 the study, the authority shall establish policies, practices, protocols,  
40 and, if appropriate, minimum percentages of the funds to be set  
41 aside to eligible teams of entrepreneurs that include at least one  
42 diverse entrepreneur or one female entrepreneur. Regardless of  
43 whether the disparity study recommends a set-aside for diverse  
44 entrepreneurs, the authority may make up to 35 percent of the funds  
45 available for the award of fellowship grants to teams of  
46 entrepreneurs that include at least one a member that either resides  
47 in an New Jersey State opportunity zone, as defined in section 45 of

1 P.L.2020, c.156 (C.34:1B-313), or is seeking to open and operate a  
2 business in an opportunity zone eligible census tract.

3

4 69. There is appropriated from the General Fund to the New  
5 Jersey Economic Development Authority the sum of \$10,000,000  
6 for the award of fellowship grants to teams of entrepreneurs  
7 pursuant to sections 65 through 68 of P.L. , c. (C. )  
8 (pending before the Legislature as this bill) and for the costs of  
9 administering the “New Jersey Innovation Fellows Program.”

10

11 70. This act shall take effect immediately, and the amendments  
12 made to P.L.2020, c.156 by this act, P.L. , c. (pending before the  
13 Legislature as this bill), shall apply to applications submitted  
14 pursuant section 72 of P.L.2020, c.156 (C.34:1B-340), section 1 of  
15 P.L.2018, c.56 (C.54A:4-12a), and 2 of P.L.2018, c.56 (C.54A:4-  
16 12b) on or after the effective date of P.L.2020, c.156, except the  
17 amendments made by this act to paragraph (2) of subsection a. of  
18 section 1 of P.L.2018, c.56 (C.54A:4-12a) and paragraph (2) of  
19 subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall  
20 apply to applications submitted on and after the effective date of  
21 this act. The amendments made to P.L.2020, c.156 by this act shall  
22 apply to all other applications submitted under P.L.2020, c.156 on  
23 and after the effective date of this act.

24

25

26

#### STATEMENT

27

28 This bill revises various provisions of the “New Jersey Economic  
29 Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.) and  
30 establishes the "New Jersey Innovation Fellows Program" within  
31 the New Jersey Economic Development Authority (EDA).

32

33 *The New Jersey Innovation Fellows Program.* Under the  
34 program, the EDA would provide fellowship grants, through a  
35 competitive process, for teams of entrepreneurs who operate  
36 businesses in targeted industries within certain eligible  
37 municipalities. The bill provides that the fellowship grants, which  
38 may not exceed \$250,000 per team, would be used as income  
39 replacement for entrepreneurs who leave the workforce to open and  
40 operate the business. The bill appropriates \$10 million from the  
41 General Fund to support the program.

42

43 *The New Jersey Aspire Program.* The bill revises various  
44 provisions of the New Jersey Aspire Program, including:

45 (1) expanding the definition of “incentive area” to include  
46 aviation and port districts;

47 (2) removing the requirement for commercial projects to  
48 demonstrate that increases in incremental State revenues would

- 1 exceed the amounts needed to support the developer's project
- 2 financing gap;
- 3 (3) increasing the tax credit allowance for certain residential
- 4 projects, which also receive an allocation of federal four-percent
- 5 low income housing tax credits, to 60 percent of total project costs;
- 6 (4) increasing the total value of tax credits that may be awarded
- 7 per redevelopment project to: (i) \$60 million for residential projects
- 8 that receive federal four-percent low income housing tax credits, or
- 9 redevelopment projects located in certain designated areas; and (ii)
- 10 \$42 million for all other redevelopment projects;
- 11 (5) reducing the amount for which the developers of residential
- 12 projects may assign tax credit certificates;
- 13 (6) revising the requirements for new residential projects to
- 14 dedicate certain units for affordable housing purposes;
- 15 (7) providing that the EDA may allow up to six years to elapse
- 16 from the date on which an incentive award agreement is executed to
- 17 the date in which a certificate of occupancy is issued for certain
- 18 higher-cost projects;
- 19 (8) defining the term "technology startup company";
- 20 (9) revising the procedures and calculations for recapturing tax
- 21 credit financing when the developer's actual project financing gap
- 22 is less than initially approved and when the developer's actual
- 23 return on investment is more than initially approved;
- 24 (10) reducing the requirements for mixed-use projects to qualify
- 25 as transformative projects;
- 26 (11) establishing additional requirements for certain residential
- 27 projects to qualify as transformative projects;
- 28 (12) removing the limitation on the number of incentive awards
- 29 that may be awarded to transformative projects;
- 30 (13) increasing the tax credit award for transformative projects
- 31 from 30 percent to 40 percent of total project costs, or \$350 million,
- 32 whichever is less;
- 33 (14) establishing standards for the execution of transformative
- 34 phase agreements and the completion of transformative projects in
- 35 phases;
- 36 (15) requiring transformative projects, other than those that
- 37 include certain film production infrastructure, to be located within
- 38 an incentive area, distressed municipality, or enhanced area;
- 39 (16) allowing the acquisition of land to count towards the
- 40 calculation of project costs;
- 41 (17) revising the definition of "enhanced area" to include any
- 42 municipality that contains an urban transit hub;
- 43 (18) revising the definitions of "food desert community" to
- 44 include areas designated under the Food Desert Relief Program and
- 45 "food delivery service" to reduce the square footage requirement;
- 46 (19) modifying the definition of "qualified childcare facility" to
- 47 include registered family child care homes, and providing that the
- 48 term includes facilities that maintain a licensed capacity for

1 children aged 13 or younger who attend for less than 24 hours per  
2 day; and

3 (20) revising the definition of “cash flow” to include government  
4 payments.

5

6 *The New Jersey Emerge Program.* The bill also revises various  
7 provisions of the New Jersey Emerge Program, including:

8 (1) amending the definition of “full-time employee” to remove  
9 certain language concerning the minimum wage requirements;

10 (2) replacing references to “incentive agreement” and “incentive  
11 phase agreement” with “project agreement” and “project phase  
12 agreement,” respectively;

13 (3) defining the term “technology startup company”;

14 (4) modifying the job retention and creation requirements for  
15 eligible projects and providing preferential treatment for projects  
16 located in certain areas, including government-restricted  
17 municipalities, enhanced areas, and qualified census tracts;

18 (5) allowing the EDA to designate the time period in which a  
19 business should demonstrate that it has obtained project approval;

20 (6) expanding the tax credit bonus for solar energy projects to  
21 include projects that generate geo-thermal, wind, or any other  
22 renewable or distributive energy;

23 (7) eliminating the tax credit bonus for projects located in  
24 qualified incentive tracts;

25 (8) providing that when one-third or more of the members of an  
26 eligible business’s governing body self-identify as members of an  
27 underrepresented community, then the \$2,000 per year tax credit  
28 bonus would be calculated based on each new or retained full-time  
29 job;

30 (9) reducing the amount of bonus credits awarded for excess  
31 capital investment and higher-paid employees;

32 (10) requiring the EDA to reduce the tax credits awarded to a  
33 project located in a government-restricted municipality if the  
34 median salary of new and retained positions is less than the existing  
35 median salary in the municipality;

36 (11) adjusting the starting point, to the EDA’s first issuance of a  
37 certificate of compliance, for the two-year period in which the  
38 payment of prevailing wages is required for construction work;

39 (12) revising the definition of “incentive area” to include  
40 enhanced areas and remove the requirement for certain suburban  
41 planning areas and rural centers to be located nearby certain  
42 transportation facilities;

43 (13) modifying the definition of “qualified childcare facility” to  
44 include registered family child care homes, and providing that the  
45 term includes facilities that maintain a licensed capacity for  
46 children aged 13 or younger who attend for less than 24 hours per  
47 day;



1 (14) revising the definition of “enhanced area” to include any  
2 municipality that contains an urban transit hub; and

3 (15) expands the definition of “capital investment to include  
4 costs incurred on behalf of a business by its landlord.

5  
6 *The Historic Property Reinvestment Program.* The bill revises  
7 the amount of credits that may be awarded to eligible business  
8 entities under the program. Specifically, the credits would be  
9 limited to \$8 million for the rehabilitation of qualified properties  
10 located in a qualified incentive tract or government-restricted  
11 municipality, \$50 million for the rehabilitation of a transformative  
12 project, and \$4 million for any other project. The bill also expands  
13 the definition of “transformative project” to include certain projects  
14 that are located within government-restricted municipalities.  
15 Lastly, the bill provides that prevailing wage requirements would  
16 also apply to building services work.

17  
18 *The Brownfields Redevelopment Incentive Program.* The bill  
19 revises the manner in which tax credit awards are calculated under  
20 the program. Specifically, projects located in a qualified incentive  
21 tract or government-restricted municipality would receive credits  
22 equal to 60 percent of actual remediation costs, 60 percent of  
23 projected remediation costs, or \$8 million, whichever is least. All  
24 other projects would receive credits equal to 50 percent of actual  
25 remediation costs, 50 percent of projected remediation costs, or \$4  
26 million, whichever is least. The bill also allows the credit to be  
27 claimed against the tax imposed under sections 2 and 3 of P.L.1945,  
28 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231  
29 (C.17:32-15), or N.J.S.17B:23-5. The bill also requires developers  
30 to provide the EDA with additional forms of evidence concerning  
31 actual remediation costs and completion of remediation. Lastly, the  
32 bill provides that prevailing wage requirements would also apply to  
33 building services work.

34  
35 *The New Jersey Innovation Evergreen Program.* The bill  
36 reduces the minimum amount of tax credits, from \$1 million to  
37 \$500,000, that a potential purchaser may bid for through the  
38 competitive auction. The bill also requires a potential purchaser of  
39 tax credits to pay not less than 90 percent of the dollar value of the  
40 credits.

41  
42 *The Food Desert Relief Program.* The bill revises various  
43 requirements governing the program. Notably, the bill requires the  
44 authority to designate the State’s “food desert communities” based  
45 on the geographical areas having limited access to nutritious foods.  
46 The bill also allows the authority to consider various additional  
47 factors when making this determination. Additionally, the bill  
48 expands the definition of “small-food retailer” to include non-

1 traditional retailers such as mobile vendors and farmers' markets.  
2 The bill also allows the authority to award grants to other eligible  
3 entities to support initiatives to strengthen the food security of  
4 residents in food desert communities.

5

6 *The Main Street Recovery Finance Program.* The bill amends  
7 various provisions of the program, including:

8 (1) revises the definition of "microbusiness" to include  
9 businesses with less than \$1.5 million in annual gross revenue, as  
10 opposed to \$1 million;

11 (2) requires the authority to undertake a disparity study of the  
12 relative availability of capital and related banking resources for  
13 small businesses and microbusinesses that are women- and  
14 minority-owned business enterprises in this State. As  
15 recommended by the study, the authority would also establish  
16 policies for the set-aside of funds for eligible small businesses and  
17 microbusinesses that are minority-owned business enterprises or  
18 women-owned business enterprises;

19 (3) allows the authority to provide grants to for-profit and non-  
20 profit entities that provide technical assistance to microbusinesses;

21 (4) exempts capital improvements in excess of \$50,000 from  
22 certain requirements regarding the use of renewable energy, energy-  
23 efficient technology, and non-renewable resources; and

24 (5) provides that minority deposit institutions are eligible to  
25 receive grants and loans under the program.

26

27 *Other Changes to Specific Programs in the "New Jersey  
28 Economic Recovery Act of 2020."* The bill makes changes to other  
29 constituent programs of the "New Jersey Economic Recovery Act  
30 of 2020." The bill amends the definition of "experienced non-profit  
31 or governmental or community development entity" under the  
32 Community-Anchored Development Program to remove the  
33 requirement for these entities to own or control significant real  
34 estate assets.

35 Additionally, the bill expands program eligibility under the New  
36 Jersey Ignite Program to include companies founded within the last  
37 seven years, as opposed to three years. Under the bill, the  
38 maximum aggregate amount of start-up rent grants that may be  
39 provided to an approved collaborative workspace could not exceed  
40 \$100,000 per calendar year. The bill also provides additional  
41 guidance concerning the application of bonus months under the  
42 New Jersey Ignite Program.

43 The bill revises parts of the "Economic Development Authority  
44 Integrity and Protection Act" to clarify the responsibilities of the  
45 Chief Compliance Officer and authorize the authority to recapture  
46 any economic development incentive in the case of substantial  
47 noncompliance, fraud, or abuse by the recipient. The bill also  
48 provides that the Office of the Economic Development Inspector

1 General would be situated in, but not of, the Department of the  
2 Treasury.

3 The bill also increases the number of members who will serve on  
4 the Working Group on Entrepreneur Zones in the authority from  
5 seven to 14 members.

6

7 *General Changes to the “New Jersey Economic Recovery Act of*  
8 *2020.”* The bill also makes certain changes that apply to multiple  
9 components of the “New Jersey Economic Recovery Act of 2020.”

10 Notably, the bill provides that up to \$350 million in tax credits,  
11 which credits were originally allocated for the New Jersey Aspire  
12 Program and the Emerge Program, would instead be made available  
13 for qualified offshore wind projects pursuant to section 6 of  
14 P.L.2010, c.57 (C.34:1B-209.4). As part of this change, the bill  
15 also revises certain elements of that law.

16 Additionally, the bill provides that if the EDA awards less than  
17 the annual limitation of tax credits under the New Jersey Aspire  
18 Program and the Emerge Program, then the uncommitted credits  
19 would be made available to qualified offshore wind projects and  
20 New Jersey studio partners, pursuant to P.L.2018, c.56. The bill  
21 also provides that beginning in fiscal year 2025, additional tax  
22 credits would be made available to New Jersey studio partners.

23 The bill also revises the manner in which the EDA would review  
24 the compliance of tax credit recipients. Specifically, the bill  
25 requires the EDA to confirm whether the business entity is in  
26 substantial good standing with respective State departments, or has  
27 entered into an agreement with a department that includes a  
28 practical corrective action plan. Additionally, the business entity  
29 would be required to confirm whether any contractors or  
30 subcontractors that perform work at a project site: (1) are registered  
31 under “The Public Works Contractor Registration Act,” N.J.S.A.  
32 34:11-56.48 et seq.; (2) have not been debarred by Department of  
33 Labor and Workforce Development from engaging in or bidding on  
34 Public Works Contracts in New Jersey; and (3) possess a tax  
35 clearance certificate issued by the Division of Taxation in the  
36 Department of the Treasury.

37 Additionally, the bill exempts eligible businesses from the  
38 requirement to enter a community benefits agreement under the  
39 New Jersey Aspire Program and the Emerge Program when the  
40 business submits a copy of the business’s approval letter from the  
41 EDA or a redevelopment agreement, provided that such  
42 documentation is certified by the host municipality and includes  
43 provisions that meet or exceed the standards for community benefit  
44 agreements.

45 The bill makes changes to the Historic Property Reinvestment  
46 Program and the Brownfields Redevelopment Incentive Program to  
47 provide that prevailing wage requirements also apply to building  
48 services work.

1 The bill also amends the definition of “project financing gap”  
2 under the “Historic Property Reinvestment Act,” the “Brownfields  
3 Redevelopment Incentive Act,” and the “New Jersey Aspire  
4 Program Act.” Specifically, the bill modifies the capital  
5 contribution requirements for projects located in a government-  
6 restricted municipality, clarifies the meaning of contributed capital,  
7 and clarifies the determination of project value.

8 The bill also amends various sections of law to correct  
9 typographical errors.

10

11 *Other Economic Development Programs.* The bill revises certain  
12 other economic development programs that predated the “New  
13 Jersey Economic Recovery Act of 2020.”

14 Notably, the bill amends the laws governing the film and digital  
15 media tax credit program. Specifically, the bill increases the  
16 amount of the film production tax credit to 35 percent of the  
17 qualified film production expenses incurred by the taxpayer. The  
18 bill also extends the period in which film production credits may be  
19 claimed to those expenses incurred before July 1, 2034.  
20 Additionally, the bill provides additional requirements concerning  
21 the review of tax credit recipients. for The bill also replaces  
22 references to “New Jersey film partners” with “New Jersey studio  
23 partners,” and reduces the number of New Jersey studio partners  
24 that may be designated throughout the State.

25 Additionally, the bill amends the various economic development  
26 programs, including the Grow New Jersey Assistance Program, the  
27 Business Employment Incentive Program, and the Business  
28 Retention and Relocation Assistance Grant Program, by adding a  
29 new definition for “full-time employee at a qualified business  
30 facility.” This provision would supersede any existing requirements  
31 for employees to be present at the qualified business facility for at  
32 least 60 percent of their time.

33 Under the “New Jersey Economic Recovery Act of 2020,” the  
34 Economic Redevelopment and Growth Grant (ERGG) Program was  
35 extended to provide \$200 million in new tax credits, including \$150  
36 for certain commercial projects and \$50 million for residential  
37 projects. The bill revises this allocation, providing instead that  
38 \$125 million in tax credits would be made available for residential  
39 projects and \$75 million in State incentive grants would be made  
40 available for commercial properties. The bill also requires the  
41 authority to apply certain standards set forth in the New Jersey  
42 Aspire Program when determining the repayment amount for  
43 recipients under the ERGG program.

44 In addition, the bill revises the New Jersey Emerging  
45 Technology and Biotechnology Financial Assistance Program by  
46 increasing, from \$10 million to \$15 million, the amount allocated  
47 for the surrender of transferable tax benefits for new and expanding  
48 emerging technology and biotechnology companies operating in

1 certain areas. The bill also expands eligibility for these funds to  
2 include new and expanding emerging technology and biotechnology  
3 companies that operate in opportunity zones, or that are certified as  
4 a woman- or minority-owned business.

5 Lastly, the bill amends current law to allow the New Jersey  
6 Infrastructure Bank to guarantee debt instruments issued by local  
7 government units to support redevelopment projects that include  
8 wastewater treatment system projects, water supply projects, or  
9 transportation projects.