

[Fourth Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3680**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

ADOPTED APRIL 25, 2013

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Oroho, Bateman, Whelan, Pou, Turner, Ruiz, Assemblymen P.Barnes, III,  
C.A.Brown and Senator Van Drew**

**SYNOPSIS**

“New Jersey Economic Opportunity Act of 2013.”

**CURRENT VERSION OF TEXT**

As amended on September 9, 2013 by the General Assembly pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 9/13/2013)

1 AN ACT concerning incentives for certain economic development  
2 projects, amending <sup>2</sup>**[and supplementing]**<sup>2</sup> various parts of the  
3 statutory law<sup>2</sup>, and supplementing Titles 34 and 52 of the  
4 Revised Statutes<sup>2</sup>.

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

8  
9 1. (New section) This act shall be known and may be cited as  
10 the “New Jersey Economic Opportunity Act of 2013.”

11  
12 2. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to  
13 read as follows:

14 3. a. The Business Retention and Relocation Assistance Grant  
15 Program is hereby established as a program under the jurisdiction of  
16 the New Jersey Economic Development Authority and shall be  
17 administered by the authority. The purpose of the program is to  
18 encourage economic development and job creation and to preserve  
19 jobs that currently exist in New Jersey but which are in danger of  
20 being relocated to premises outside of the State. To implement that  
21 purpose, and to the extent that funding for the program is available,  
22 the program may provide grants of tax credits. To be eligible for  
23 any grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et  
24 seq.), a business shall demonstrate to the authority, at the time of  
25 application, that the grant of tax credits and resultant retention of  
26 full-time jobs and any capital investment will yield a net positive  
27 benefit to the State. The net benefit resulting from the retention of  
28 full-time jobs and any capital investment by a business that has had  
29 grant pre-application meetings with the authority and has executed  
30 contracts relating to the new business location during the period  
31 commencing May 1, 2010 until the enactment of P.L.2010, c.123,  
32 shall be calculated from the date of the initial grant pre-application  
33 meeting.

34 b. (1) If an application under P.L.1996, c.25 (C.34:1B-112 et  
35 seq.) has been received by the authority prior to the effective date of  
36 the “New Jersey Economic Opportunity Act of 2013,” P.L. \_\_\_\_\_,

37 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), then, to  
38 the extent that there remains sufficient financial authorization for  
39 the grant of tax credits, the authority is authorized to consider the  
40 application and to make a grant of tax credits to an eligible  
41 applicant, provided that the authority shall take final action on that

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly floor amendments adopted April 29, 2013.

<sup>2</sup> Senate SBA committees amendments adopted June 24, 2013.

<sup>3</sup> Assembly floor amendments adopted June 27, 2013.

<sup>4</sup> Assembly amendments adopted in accordance with Governor's recommendations September 9, 2013.

1 grant of tax credits no later than <sup>2</sup>[90 calendar days after the  
2 effective date of the “New Jersey Economic Opportunity Act of  
3 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
4 bill)] December 31, 2013<sup>2</sup>.

5 (2) A business shall apply for a grant of tax credits under the  
6 Business Retention and Relocation Assistance Grant Program prior  
7 to the effective date of the “New Jersey Economic Opportunity Act  
8 of 2013,” P.L. , c. (C. ) (pending before the Legislature as  
9 this bill), and shall submit its documentation for approval of a grant  
10 of tax credits no later than <sup>2</sup>[July 1, 2013] 90 calendar days after  
11 the effective date of the “New Jersey Economic Opportunity Act of  
12 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
13 bill)<sup>2</sup>.

14 (3) If a business has submitted an application under P.L.1996,  
15 c.25 (C.34:1B-112 et seq.) and that application has not been  
16 approved for any reason, the lack of approval shall not serve to  
17 prejudice in any way the consideration of a new application as may  
18 be submitted by a business for the provision of incentives offered  
19 pursuant to the “New Jersey Economic Opportunity Act of 2013,”  
20 P.L. , c. (C. ) (pending before the Legislature as this bill).  
21 (cf: P.L.2010, c.123, s.2)

22  
23 3. Section 4 of P.L.1996, c.26 (C.34:1B-127) is amended to  
24 read as follows:

25 4. a. A business may apply to the authority for a grant for any  
26 project which:

- 27 (1) Will create at least 25 eligible positions in the base years; or  
28 (2) Will create at least 10 eligible positions in the base years if  
29 the business is an advanced computing company, an advanced  
30 materials company, a biotechnology company, an electronic device  
31 technology company, an environmental technology company, or a  
32 medical device technology company.

33 b. In the case of a business which is a landlord, the business  
34 may apply to the authority for a grant for any project in which at  
35 least 25 eligible positions are created in the base years.

36 c. A project which consists solely of point-of-final-purchase  
37 retail facilities shall not be eligible for a grant under **[this act]**  
38 P.L.1996, c.26 (C.34:1B-124 et seq.). If a project consists of both  
39 point-of-final-purchase retail facilities and non-retail facilities, only  
40 the portion of the project consisting of non-retail facilities shall be  
41 eligible for a grant, and only the withholdings from new employees  
42 which are employed in the portion of the project which represents  
43 non-retail facilities shall be used to determine the amount of the  
44 grant. If a warehouse facility is part of a point-of-final-purchase  
45 retail facility and supplies only that facility, the warehouse facility  
46 shall not be eligible for a grant. For the purposes of **[this act]**

1 P.L.1996, c.26 (C.34:1B-124 et seq.), catalog distribution centers  
2 shall not be considered point-of-final-purchase retail facilities.

3 d. (1) If an application under P.L.1996, c.26 (C.34:1B-124 et  
4 seq.) has been received by the authority prior to the effective date of  
5 the “New Jersey Economic Opportunity Act of 2013,” P.L. \_\_\_\_\_,  
6 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), and, to  
7 the extent that there remains sufficient appropriations for grant  
8 issuance, then the authority is authorized to consider the application  
9 and to make a grant to an eligible applicant, provided that the  
10 authority shall take final action on that grant no later than <sup>2</sup>[90  
11 calendar days after the effective date of the “New Jersey Economic  
12 Opportunity Act of 2013,” P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the  
13 Legislature as this bill)] December 31, 2013<sup>2</sup>.

14 (2) A business shall apply for a grant under the Business  
15 Employment Incentive Program prior to the effective date of the  
16 “New Jersey Economic Opportunity Act of 2013,”  
17 P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), and  
18 shall submit its documentation for approval of a grant no later than  
19 <sup>2</sup>[July 1, 2013] 90 calendar days after the effective date of the  
20 “New Jersey Economic Opportunity Act of 2013,” P.L. \_\_\_\_\_,  
21 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill)<sup>2</sup>.

22 (3) If a business has submitted an application under P.L.1996,  
23 c.26 (C.34:1B-124 et seq.) and that application has not been  
24 approved for any reason, the lack of approval shall not serve to  
25 prejudice in any way the consideration of a new application as may  
26 be submitted by a business for the provision of incentives offered  
27 pursuant to the “New Jersey Economic Opportunity Act of 2013,”  
28 P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this bill).  
29 (cf: P.L.2003, c.166, s.2)

30

31 4. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to  
32 read as follows:

33 3. a. (1) A business, upon application to and approval from the  
34 authority, shall be allowed a credit of 100 percent of its capital  
35 investment, made after the effective date of P.L.2007, c.346  
36 (C.34:1B-207 et seq.) but prior to its submission of documentation  
37 pursuant to subsection c. of this section, in a qualified business  
38 facility within an eligible municipality, pursuant to the restrictions  
39 and requirements of this section. To be eligible for any tax credits  
40 authorized under this section, a business shall demonstrate to the  
41 authority, at the time of application, that the State's financial  
42 support of the proposed capital investment in a qualified business  
43 facility will yield a net positive benefit to both the State and the  
44 eligible municipality. The value of all credits approved by the  
45 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall  
46 not exceed \$1,750,000,000, except as may be increased by the  
47 authority as set forth in paragraph (5) of subsection a. of P.L.2009,

1 c.90 (C.34:1B-209.3) <sup>2</sup>and section 6 of P.L.2010, c.57 (C.34:1B-  
2 209.4)<sup>2</sup> .

3 (2) A business, other than a tenant eligible pursuant to paragraph  
4 (3) of this subsection, shall make or acquire capital investments  
5 totaling not less than \$50,000,000 in a qualified business facility, at  
6 which the business shall employ not fewer than 250 full-time  
7 employees to be eligible for a credit under this section. A business  
8 that acquires a qualified business facility shall also be deemed to  
9 have acquired the capital investment made or acquired by the seller.

10 (3) A business that is a tenant in a qualified business facility, the  
11 owner of which has made or acquired capital investments in the  
12 facility totaling not less than \$50,000,000, shall occupy a leased  
13 area of the qualified business facility that represents at least  
14 \$17,500,000 of the capital investment in the facility at which the  
15 tenant business and up to two other tenants in the qualified business  
16 facility shall employ not fewer than 250 full-time employees in the  
17 aggregate to be eligible for a credit under this section. The amount  
18 of capital investment in a facility that a leased area represents shall  
19 be equal to that percentage of the owner's total capital investment in  
20 the facility that the percentage of net leasable area leased by the  
21 tenant is of the total net leasable area of the qualified business  
22 facility. Capital investments made by a tenant shall be deemed to  
23 be included in the calculation of the capital investment made or  
24 acquired by the owner, but only to the extent necessary to meet the  
25 owner's minimum capital investment of \$50,000,000. Capital  
26 investments made by a tenant and not allocated to meet the owner's  
27 minimum capital investment threshold of \$50,000,000 shall be  
28 added to the amount of capital investment represented by the  
29 tenant's leased area in the qualified business facility.

30 (4) A business shall not be allowed tax credits under this section  
31 if the business participates in a business employment incentive  
32 grant relating to the same capital and employees that qualify the  
33 business for this credit, or if the business receives assistance  
34 pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is  
35 allowed a tax credit under this section shall not be eligible for  
36 incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et  
37 al.). A business shall not qualify for a tax credit under this section,  
38 based upon capital investment and employment of full-time  
39 employees, if that capital investment or employment was the basis  
40 for which a grant was provided to the business pursuant to the  
41 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-  
42 237 et seq.).

43 (5) Full-time employment for an accounting or privilege period  
44 shall be determined as the average of the monthly full-time  
45 employment for the period.

46 (6) The capital investment of the owner of a qualified business  
47 facility is that percentage of the capital investment made or  
48 acquired by the owner of the building that the percentage of net

1 leasable area of the qualified business facility not leased to tenants  
2 is of the total net leasable area of the qualified business facility.

3 (7) A business shall be allowed a tax credit of 100 percent of its  
4 capital investment, made after the effective date of P.L.2011, c.89  
5 but prior to its submission of documentation pursuant to subsection  
6 c. of this section, in a qualified business facility that is part of a  
7 mixed use project, provided that (a) the qualified business facility  
8 represents at least \$17,500,000 of the total capital investment in the  
9 mixed use project, (b) the business employs not fewer than 250 full-  
10 time employees in the qualified business facility, and (c) the total  
11 capital investment in the mixed use project of which the qualified  
12 business facility is a part is not less than \$50,000,000. The  
13 allowance of credits under this paragraph shall be subject to the  
14 restrictions and requirements, to the extent that those are not  
15 inconsistent with the provisions of this paragraph, set forth in  
16 paragraphs (1) through (6) of this subsection, including but not  
17 limited to the requirement that the business shall demonstrate to the  
18 authority, at the time of application, that the State's financial  
19 support of the proposed capital investment in a qualified business  
20 facility will yield a net positive benefit to both the State and the  
21 eligible municipality.

22 (8) In determining whether a proposed capital investment will  
23 yield a net positive benefit, the authority shall not consider the  
24 transfer of an existing job from one location in the State to another  
25 location in the State as the creation of a new job, unless (a) the  
26 business proposes to transfer existing jobs to a municipality in the  
27 State as part of a consolidation of business operations from two or  
28 more other locations that are not in the same municipality whether  
29 in-State or out-of-State, or (b) the business's chief executive officer,  
30 or equivalent officer, submits a certification to the authority  
31 indicating that the existing jobs are at risk of leaving the State and  
32 that the business's chief executive officer, or equivalent officer, has  
33 reviewed the information submitted to the authority and that the  
34 representations contained therein are accurate, and the business  
35 intends to employ not fewer than 500 full-time employees in the  
36 qualified business facility. In the event that this certification by the  
37 business's chief executive officer, or equivalent officer, is found to  
38 be willfully false, the authority may revoke any award of tax credits  
39 in their entirety, which revocation shall be in addition to any other  
40 criminal or civil penalties that the business and the officer may be  
41 subject to. When considering an application involving intra-State  
42 job transfers, the authority shall require the company to submit the  
43 following information as part of its application: a full economic  
44 analysis of all locations under consideration by the company; all  
45 lease agreements, ownership documents, or substantially similar  
46 documentation for the business's current in-State locations; and all  
47 lease agreements, ownership documents, or substantially similar  
48 documentation for the potential out-of-State location alternatives, to

1 the extent they exist. Based on this information, and any other  
2 information deemed relevant by the authority, the authority shall  
3 independently verify and confirm, by way of making a factual  
4 finding by separate vote of the authority's board, the business's  
5 assertion that the jobs are actually at risk of leaving the State,  
6 before a business may be awarded any tax credits under this section.

7 b. (1) If applications under this section have been received by  
8 the authority prior to the effective date of the "New Jersey  
9 Economic Opportunity Act of 2013," P.L. , c. (C. ) (pending  
10 before the Legislature as this bill), then, to the extent that there  
11 remains sufficient financial authorization for the award of a tax  
12 credit, the authority is authorized to consider those applications and  
13 to make awards of tax credits to eligible applicants, provided that  
14 the authority shall take final action on those applications<sup>2</sup> prior to  
15 the 90th day after the date of enactment of the "New Jersey  
16 Economic Opportunity Act of 2013," P.L. , c. (C. ) (pending  
17 before the Legislature as this bill)] no later than December 31,  
18 2013<sup>2</sup>.

19 (2) A business shall apply for the credit under this section prior  
20 to [July 1, 2014] the effective date of the "New Jersey Economic  
21 Opportunity Act of 2013," P.L. , c. (C. ) (pending before the  
22 Legislature as this bill), and shall submit its documentation for  
23 approval of its credit amount no later than [July 28, 2017] April 26,  
24 2017.

25 (3) If a business has submitted an application under this section  
26 and that application has not been approved for any reason, the lack  
27 of approval shall not serve to prejudice in any way the  
28 consideration of a new application as may be submitted for the  
29 qualified business facility for the provision of incentives offered  
30 pursuant to the "New Jersey Economic Opportunity Act of 2013,"  
31 P.L. , c. (C. ) (pending before the Legislature as this bill).

32 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-  
33 207 et seq.) for applications submitted to and approved by the  
34 authority prior to the effective date of the "New Jersey Economic  
35 Opportunity Act of 2013," P.L. , c. (C. ) (pending before the  
36 Legislature as this bill), shall be administered by the authority in the  
37 manner established prior to that date.

38 <sup>2</sup>(5) With respect to an application received by the authority  
39 prior to the effective date of the "New Jersey Economic  
40 Opportunity Act of 2013," P.L. , c. (C. ) (pending before the  
41 Legislature as this bill) for a qualified business facility that is  
42 located on or adjacent to the campus of an acute care medical  
43 facility, (a) the minimum number of full-time employees required  
44 for eligibility under the program may be employed by any number  
45 of tenants or other occupants of the facility, in the aggregate, and  
46 the initial satisfaction of such requirement following completion of  
47 the project shall be deemed to satisfy the employment requirements

1 of the program in all respects, and (b) if the capital investment in  
2 the facility exceeds \$100,000,000, the determination of the net  
3 positive benefit yield shall be based on the benefits generated  
4 during a period of up to 30 years following the completion of the  
5 project, as determined by the authority.<sup>2</sup>

6 c. (1) The amount of credit allowed shall, except as otherwise  
7 provided, be equal to the capital investment made by the business,  
8 or the capital investment represented by the business' leased area, or  
9 area owned by the business as a condominium, and shall be taken  
10 over a 10-year period, at the rate of one-tenth of the total amount of  
11 the business' credit for each tax accounting or privilege period of  
12 the business, beginning with the tax period in which the business is  
13 first certified by the authority as having met the investment capital  
14 and employment qualifications, subject to any reduction or  
15 disqualification as provided by subsection d. of this section as  
16 determined by annual review by the authority. In conducting its  
17 annual review, the authority may require a business to submit any  
18 information determined by the authority to be necessary and  
19 relevant to its review.

20 The credit amount for any tax period ending after July 28, 2017  
21 during which the documentation of a business' credit amount  
22 remains uncertified shall be forfeited, although credit amounts for  
23 the remainder of the years of the 10-year credit period shall remain  
24 available to it.

25 The credit amount that may be taken for a tax period of the  
26 business that exceeds the final liabilities of the business for the tax  
27 period may be carried forward for use by the business in the next 20  
28 successive tax periods, and shall expire thereafter, provided that the  
29 value of all credits approved by the authority against tax liabilities  
30 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year  
31 shall not exceed ~~[\$150,000,000]~~ <sup>2</sup>~~[\$250,000,000]~~ \$260,000,000<sup>2</sup>.

32 The amount of credit allowed for a tax period to a business that  
33 is a tenant in a qualified business facility shall not exceed the  
34 business' total lease payments for occupancy of the qualified  
35 business facility for the tax period.

36 (2) A business that is a partnership shall not be allowed a credit  
37 under this section directly, but the amount of credit of an owner of a  
38 business shall be determined by allocating to each owner of the  
39 partnership that proportion of the credit of the business that is equal  
40 to the owner of the partnership's share, whether or not distributed,  
41 of the total distributive income or gain of the partnership for its tax  
42 period ending within or with the owner's tax period, or that  
43 proportion that is allocated by an agreement, if any, among the  
44 owners of the partnership that has been provided to the Director of  
45 the Division of Taxation in the Department of the Treasury by such  
46 time and accompanied by such additional information as the  
47 director may require.



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

6 d. (1) If, in any tax period, fewer than 200 full-time employees  
7 of the business at the qualified business facility are employed in  
8 new full-time positions, the amount of the credit otherwise  
9 determined pursuant to final calculation of the award of tax credits  
10 pursuant to subsection c. of this section shall be reduced by 20  
11 percent for that tax period and each subsequent tax period until the  
12 first period for which documentation demonstrating the restoration  
13 of the 200 full-time employees employed in new full-time positions  
14 at the qualified business facility has been reviewed and approved by  
15 the authority, for which tax period and each subsequent tax period  
16 the full amount of the credit shall be allowed; provided, however,  
17 that for businesses applying before January 1, 2010, there shall be  
18 no reduction if a business relocates to an urban transit hub from  
19 another location or other locations in the same municipality. For  
20 the purposes of this paragraph, a "new full-time position" means a  
21 position created by the business at the qualified business facility  
22 that did not previously exist in this State.

23 (2) If, in any tax period, the business reduces the total number of  
24 full-time employees in its Statewide workforce by more than 20  
25 percent from the number of full-time employees in its Statewide  
26 workforce in the last tax accounting or privilege period prior to the  
27 credit amount approval under subsection a. of this section, then the  
28 business shall forfeit its credit amount for that tax period and each  
29 subsequent tax period, until the first tax period for which  
30 documentation demonstrating the restoration of the business'  
31 Statewide workforce to the threshold levels required by this  
32 paragraph has been reviewed and approved by the authority, for  
33 which tax period and each subsequent tax period the full amount of  
34 the credit shall be allowed.

35 (3) If, in any tax period, (a) the number of full-time employees  
36 employed by the business at the qualified business facility located  
37 in an urban transit hub within an eligible municipality drops below  
38 250, or (b) the number of full-time employees, who are not the  
39 subject of intra-State job transfers, pursuant to paragraph (8) of  
40 subsection a. of this section, employed by the business at any other  
41 business facility in the State, whether or not located in an urban  
42 transit hub within an eligible municipality, drops by more than 20  
43 percent from the number of full-time employees in its workforce in  
44 the last tax accounting or privilege period prior to the credit amount  
45 approval under this section, then the business shall forfeit its credit  
46 amount for that tax period and each subsequent tax period, until the  
47 first tax period for which documentation demonstrating the  
48 restoration of the number of full-time employees employed by the

1 business at the qualified business facility to 250 or an increase  
2 above the 20 percent reduction has been reviewed and approved by  
3 the authority, for which tax period and each subsequent tax period  
4 the full amount of the credit shall be allowed.

5 (4) (i) If the qualified business facility is sold in whole or in part  
6 during the 10-year eligibility period the new owner shall not acquire  
7 the capital investment of the seller and the seller shall forfeit all  
8 credits for the tax period in which the sale occurs and all subsequent  
9 tax periods, provided however that any credits of tenants shall  
10 remain unaffected.

11 (ii) If a tenant subleases its tenancy in whole or in part during  
12 the 10-year eligibility period the new tenant shall not acquire the  
13 credit of the sublessor, and the sublessor tenant shall forfeit all  
14 credits for the tax period of its sublease and all subsequent tax  
15 periods.

16 e. (1) The Executive Director of the New Jersey Economic  
17 Development Authority, in consultation with the Director of the  
18 Division of Taxation in the Department of the Treasury, shall adopt  
19 rules in accordance with the "Administrative Procedure Act,"  
20 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement  
21 this act, including but not limited to: examples of and the  
22 determination of capital investment; the enumeration of eligible  
23 municipalities; specific delineation of urban transit hubs; the  
24 determination of the limits, if any, on the expense or type of  
25 furnishings that may constitute capital improvements; the  
26 promulgation of procedures and forms necessary to apply for a  
27 credit, including the enumeration of the certification procedures and  
28 allocation of tax credits for different phases of a qualified business  
29 facility or mixed use project; and provisions for credit applicants to  
30 be charged an initial application fee, and ongoing service fees, to  
31 cover the administrative costs related to the credit.

32 (2) Through regulation, the Economic Development Authority  
33 shall establish standards based on the green building manual  
34 prepared by the Commissioner of Community Affairs pursuant to  
35 section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of  
36 renewable energy, energy-efficient technology, and non-renewable  
37 resources in order to reduce environmental degradation and  
38 encourage long-term cost reduction.

39 (cf: P.L.2012, c.35, s.1)

40

41 5. Section 33 of P.L.2009, c.90 (C.34:1B-209.1) is amended to  
42 read as follows:

43 33. A business may apply to the Director of the Division of  
44 Taxation in the Department of the Treasury and the executive  
45 director of the authority for a tax credit transfer certificate, covering  
46 one or more years, in lieu of the business being allowed any amount  
47 of the credit against the tax liability of the business. The tax credit  
48 transfer certificate, upon receipt thereof by the business from the

1 director and the executive director of the authority, may be sold or  
2 assigned, in full or in part, in an amount not less than \$100,000 of  
3 tax credits, although one transfer in each tax period may be in an  
4 amount less than \$100,000 to any other person that may have a tax  
5 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
6 pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and  
7 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15),  
8 or pursuant to N.J.S.17B:23-5. The certificate provided to the  
9 business shall include a statement waiving the business's right to  
10 claim that amount of the credit against the taxes that the business  
11 has elected to sell or assign. The sale or assignment of any amount  
12 of a tax credit transfer certificate allowed under this section shall  
13 not be exchanged for consideration received by the business of less  
14 than 75 percent of the transferred credit amount before considering  
15 any further discounting to present value which shall be permitted.  
16 Any amount of a tax credit transfer certificate used by a purchaser  
17 or assignee against a tax liability shall be subject to the same  
18 limitations and conditions that apply to the use of the credit by the  
19 business that originally applied for and was allowed the credit.  
20 (cf: P.L.2009, c.90, s.33)

21  
22 6. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to  
23 read as follows:

24 35. a. (1) A developer, upon application to and approval from  
25 the authority, shall be allowed a credit of up to 35 percent of its  
26 capital investment, <sup>2</sup>or up to 40 percent for a project located in a  
27 Garden State Growth Zone,<sup>2</sup> made after the effective date of  
28 P.L.2009, c.90 (C.52:27D-489a et al.) but prior to its submission of  
29 documentation pursuant to subsection c. of this section, in a  
30 qualified residential project, pursuant to the restrictions and  
31 requirements of this section. To be eligible for any tax credits  
32 authorized under this section, a developer shall demonstrate to the  
33 authority, through a project pro forma analysis at the time of  
34 application, that the qualified residential project is likely to be  
35 realized with the provision of tax credits at the level requested but  
36 is not likely to be accomplished by private enterprise without the  
37 tax credits. The value of all credits approved by the authority  
38 pursuant to **【P.L.2009, c.90 (C.52:27D-489a et al.)】** this section for  
39 qualified residential projects may be up to \$150,000,000, except as  
40 may be increased by the authority as set forth below and as set forth  
41 in paragraph (5) of this subsection; provided, however, that the  
42 combined value of all credits approved by the authority pursuant to  
43 **【both】** section 3 of P.L.2007, c.346 (C.34:1B-207 【et seq.】) and  
44 **【P.L.2009, c.90 (C.52:27D-489a et al.)】** this section shall not  
45 exceed \$1,750,000,000, except as may be increased by the authority  
46 as set forth in paragraph (5) of this subsection. The authority shall  
47 monitor application and allocation activity under P.L.2007, c.346

1 (C.34:1B-207 et seq.), and if sufficient credits are available after  
2 taking into account allocation under P.L.2007, c.346 (C.34:1B-207  
3 et seq.) to those qualified business facilities for which applications  
4 have been filed or for which applications are reasonably anticipated,  
5 and if the executive director judges certain qualified residential  
6 projects to be meritorious, the aforementioned \$150,000,000 cap  
7 may, in the discretion of the executive director, from time to time,  
8 be exceeded for allocation to qualified residential projects in such  
9 amounts as the executive director deems reasonable, justified, and  
10 appropriate. In allocating all credits to qualified residential projects  
11 under this section, the executive director shall take into account,  
12 together with other factors deemed relevant by the executive  
13 director: input from the municipality in which the project is to be  
14 located, whether the project contributes to the recovery of areas  
15 affected by Hurricane Sandy, whether the project furthers specific  
16 State or municipal planning and development objectives, or both,  
17 and whether the project furthers a public purpose, such as  
18 catalyzing urban development or maximizing the value of vacant,  
19 dilapidated, outmoded, government-owned, or underutilized  
20 property, or both.

21 (2) A developer shall make or acquire capital investments  
22 totaling not less than \$50,000,000 in a qualified residential project  
23 to be eligible for a credit under this section. A developer that  
24 acquires a qualified residential project shall also be deemed to have  
25 acquired the capital investment made or acquired by the seller.

26 (3) The capital investment requirement may be met by the  
27 developer or by one or more of its affiliates.

28 (4) A developer of a mixed use project shall be allowed a credit  
29 pursuant to subparagraph (a) or (b) of this paragraph, but not both.

30 (a) A developer shall be allowed a credit in accordance with this  
31 section for a qualified residential project that includes a mixed use  
32 project.

33 (b) A developer shall be allowed a credit of up to 35 percent of  
34 its capital investment, <sup>2</sup>or up to 40 percent for a project located in a  
35 Garden State Growth Zone,<sup>2</sup> made after the effective date of  
36 P.L.2011, c.89 but prior to its submission of documentation  
37 pursuant to subsection c. of this section, in a qualified residential  
38 project that is part of a mixed use project, provided that: (a) the  
39 capital investment in the qualified residential project represents at  
40 least \$17,500,000 of the total capital investment in the mixed use  
41 project; and (b) the total capital investment in the mixed use project  
42 of which the qualified residential project is a part is not less than  
43 \$50,000,000. The allowance of credits under this paragraph shall  
44 be subject to the restrictions and requirements, to the extent that  
45 those are not inconsistent with the provisions of this paragraph, set  
46 forth in paragraphs (1) through (3) of this subsection, including but  
47 not limited to the requirement prescribed in paragraph (1) of this  
48 subsection that the developer shall demonstrate to the authority,

1 through a project pro forma analysis at the time of application, that  
2 the qualified residential project is likely to be realized with the  
3 provision of tax credits at the level requested but is not likely to be  
4 accomplished by private enterprise without the tax credits.

5 As used in this subparagraph:

6 "Mixed use project" means a project comprising both a qualified  
7 residential project and a qualified business facility.

8 (5) The authority may approve and allocate credits for qualified  
9 residential projects in a value sufficient to meet the requirements of  
10 all applications that were received by the authority between October  
11 24, 2012 and December 21, 2012, without regard to the terms of  
12 any competitive solicitation<sup>2</sup>, except for the \$33,000,000 per  
13 project cap,<sup>2</sup> and without need for reapplication by any applicant.  
14 The authority shall take final action on those applications prior to  
15 the <sup>2</sup>[90th] 120th<sup>2</sup> day after the date of enactment of the "New  
16 Jersey Economic Opportunity Act of 2013," P.L. , c. (C. )  
17 (pending before the Legislature as this bill).

18 b. (1) A developer shall apply for the credit under this section  
19 on or prior to [July 1, 2014] December 21, 2012 but [and a] may  
20 thereafter supplement an application as may be requested by the  
21 authority. A developer shall submit its documentation for approval  
22 of its credit amount no later than [July 28, 2017] April 26, 2017.

23 (2) If a developer has submitted an application under this  
24 section and the application has not been approved for any reason,  
25 the lack of approval shall not serve to prejudice in any way the  
26 consideration of a new application as may be submitted for the  
27 project for the provision of incentives offered pursuant to the "New  
28 Jersey Economic Opportunity Act of 2013," P.L. , c. (C. )  
29 (pending before the Legislature as this bill).

30 c. The credit shall be administered in accordance with the  
31 provisions of subsections c. and e. of section 3 of P.L.2007, c.346  
32 (C.34:1B-209), as amended by section 32 of P.L.2009, c.90, and  
33 section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that (1) all  
34 references therein to "business" and "qualified business facility"  
35 shall be deemed to refer respectively to "developer" and "qualified  
36 residential project," as such terms are defined in section 34 of  
37 P.L.2009, c.90 (C.34:1B-209.2) and (2) all references therein to  
38 credits claimed by tenants and to reductions or disqualifications in  
39 credits as determined by annual review of the authority shall be  
40 disregarded. Provided however, for purposes of a "mixed use  
41 project" as that term is used and defined pursuant to subparagraph  
42 (b) of paragraph (4) of subsection a. of this section, "qualified  
43 business facility" means that term as defined pursuant to section 2  
44 of P.L.2007, c.346 (C.34:1B-208).

45 (cf: P.L.2012, c.35, s.2)

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

3       2. As used in **[this act]** P.L.2011, c.149 (C.34:1B-242 et seq.):  
4       "Affiliate" means an entity that directly or indirectly controls, is  
5 under common control with, or is controlled by the business.  
6 Control exists in all cases in which the entity is a member of a  
7 controlled group of corporations as defined pursuant to section 1563  
8 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the  
9 entity is an organization in a group of organizations under common  
10 control as defined pursuant to subsection (b) or (c) of section 414 of  
11 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer  
12 may establish by clear and convincing evidence, as determined by  
13 the Director of the Division of Taxation in the Department of the  
14 Treasury, that control exists in situations involving lesser  
15 percentages of ownership than required by those statutes. An  
16 affiliate of a business may contribute to meeting either the qualified  
17 investment or full-time employee requirements of a business that  
18 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-  
19 209).

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

22       "Aviation district" means the area within a <sup>2</sup>[1-mile] one-mile<sup>2</sup>  
23 radius of the outermost boundary of the "Atlantic City International  
24 Airport," established pursuant to section 24 of P.L.1991, c.252  
25 (C.27:25A-24).

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

28       a corporation that is subject to the tax imposed pursuant to  
29 section 5 of P.L.1945, c.162 (C.54:10A-5) <sup>2</sup>[.] ;<sup>2</sup>

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

33 **[or is]**

34       a partnership <sup>2</sup>[.] ;<sup>2</sup>

35       an S corporation <sup>2</sup>[.] ;<sup>2</sup> **[or]**

36       a limited liability **[corporation]** company <sup>2</sup>[.] ;<sup>2</sup> or

37       a non-profit corporation.

38       <sup>2</sup>If the business or tenant is a cooperative or part of a  
39 cooperative, then the cooperative may qualify for credits by  
40 counting the full-time employees and capital investments of its  
41 member organizations, and the cooperative may distribute credits to  
42 its member organizations. If the business or tenant is a cooperative  
43 that leases to its member organizations, the lease shall be treated as  
44 a lease to an affiliate or affiliates.<sup>2</sup>

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

1 "Capital investment" in a qualified business facility means  
2 expenses by a business or any affiliate of the business incurred after  
3 application ~~],~~ but before the end of the tenth year after, the effective  
4 date of P.L.2011, c.149 (C.34:1B-242 et al.)~~]~~ for <sup>2</sup>~~either~~<sup>2</sup> :

5 a. site <sup>2</sup>acquisition, if purchased within 24 months prior to  
6 project application, site<sup>2</sup> preparation and construction, repair,  
7 renovation, improvement, equipping, or furnishing on real property  
8 or of a building, structure, facility, or improvement to real property;  
9 ~~[and]~~ <sup>2</sup>~~or~~<sup>2</sup>

10 b. obtaining and installing furnishings and machinery,  
11 apparatus, or equipment, including but not limited to material goods  
12 subject to bonus depreciation under sections 168 and 179 of the  
13 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the  
14 operation of a business on real property or in a building, structure,  
15 facility, or improvement to real property <sup>2</sup>~~[, or]~~<sup>2</sup>;

16 c. <sup>2</sup>~~both~~ receiving Highlands Development Credits under the  
17 Highlands Transfer Development Rights Program authorized  
18 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or

19 d. any of the foregoing<sup>2</sup> .

20 <sup>2</sup>In addition to the foregoing, in a Garden State Growth Zone, the  
21 following qualify as a capital investment: any and all  
22 redevelopment and relocation costs, including, but not limited to,  
23 site acquisition if made within 24 months of application to the  
24 authority, engineering, legal, accounting, and other professional  
25 services required; and relocation, environmental remediation, and  
26 infrastructure improvements for the project area, including, but not  
27 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or  
28 sidewalk construction or repair.<sup>2</sup>

29 In addition to the foregoing, if a business acquires or leases a  
30 qualified business facility, the capital investment made or acquired  
31 by the seller or owner, as the case may be, if pertaining primarily to  
32 the premises of the qualified business facility, shall be considered a  
33 capital investment by the business and, if pertaining generally to the  
34 qualified business facility being acquired or leased, shall be  
35 allocated to the premises of the qualified business facility on the  
36 basis of the gross leasable area of the premises in relation to the  
37 total gross leasable area in the qualified business facility. The  
38 capital investment described herein may include any capital  
39 investment made or acquired <sup>2</sup>within 24 months<sup>2</sup> prior to the date of  
40 application so long as the amount of capital investment made or  
41 acquired by the business, any affiliate of the business, or any owner  
42 after the date of application equals at least 50 percent of the amount  
43 of capital investment, allocated to the premises of the qualified  
44 business facility being acquired or leased on the basis of the gross  
45 leasable area of such premises in relation to the total gross leasable  
46 area in the qualified business facility made or acquired prior to the  
47 date of application.

1       “Commitment period” means the period of time that is 1.5 times  
2 the eligibility period.

3       “Deep poverty pocket” means a population census tract having a  
4 poverty level of 20 percent or more, and which is located within the  
5 qualified incentive area and has been determined by the authority to  
6 be an area appropriate for development and in need of economic  
7 development incentive assistance.

8       “Disaster recovery project” means a project located on property  
9 that has been wholly or substantially damaged or destroyed as a  
10 result of a federally-declared disaster<sup>2</sup> which, after utilizing all  
11 disaster funds available from federal, State, county, and local  
12 funding sources, demonstrates to the satisfaction of the authority  
13 that access to additional funding authorized pursuant to the “New  
14 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. )  
15 (pending before the Legislature as this bill), is necessary to  
16 complete such redevelopment project<sup>2</sup>, and which is located within  
17 the qualified incentive area and has been determined by the  
18 authority to be in an area appropriate for development and in need  
19 of economic development incentive assistance.

20       “Distressed municipality” means a municipality that is qualified  
21 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a  
22 municipality under the supervision of the Local Finance Board  
23 pursuant to the provisions of the “Local Government Supervision  
24 Act (1947),” P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality  
25 identified by the Director of the Division of Local Government  
26 Services in the Department of Community Affairs to be facing  
27 serious fiscal distress, a SDA municipality, or a municipality in  
28 which a major rail station is located.

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  
38 **【employee】** position **【retained or created by】** in a business in this  
39 State **【for which a business provides employee health benefits**  
40 under a group health plan as defined under section 14 of P.L.1997,  
41 c.146 (C.17B:27-54), a health benefits plan as defined under section  
42 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of  
43 health insurance covering more than one person issued pursuant to  
44 Article 2 of chapter 27 of Title 17B of the New Jersey Statutes】  
45 which the business has filled with a full-time employee.

46       “Full-time employee” means a person:



1 a. who is employed by [the] a business for consideration for at  
2 least 35 hours a week, or who renders any other standard of service  
3 generally accepted by custom or practice as full-time employment,  
4 or [a person]

5 b. 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 full-time employment, and whose wages are  
11 subject to withholding as provided in the "New Jersey Gross  
12 Income Tax Act," N.J.S.54A:1-1 et seq., or [an employee]

13 c. who is a resident of another State but whose income is not  
14 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
15 et seq. or who is a partner of a business who works for the  
16 partnership 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 distributive share of income, gain,  
19 loss, or deduction, or whose guaranteed payments, or any  
20 combination thereof, is subject to the payment of estimated taxes, as  
21 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
22 et seq., and

23 d. who is provided, by the business, with employee health  
24 benefits under a health benefits plan authorized pursuant to State or  
25 federal law.

26 With respect to a logistics, manufacturing, energy, defense,  
27 aviation, or maritime business, excluding <sup>2</sup>[a]<sup>2</sup> primarily  
28 warehouse or distribution <sup>2</sup>[business] operations<sup>2</sup>, located in a port  
29 district having a container terminal:

30 the requirement that employee health benefits are to be provided  
31 shall be deemed to be satisfied if such benefits are provided in  
32 accordance with industry practice by a third party obligated to  
33 provide such benefits pursuant to a collective bargaining agreement;

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

37 35 hours of employment per week at a qualified business facility  
38 shall constitute one "full-time employee," regardless of whether or  
39 not the hours of work were performed by one or more persons.

40 <sup>2</sup>For any project located in a Garden State Growth Zone which  
41 qualifies under the "Municipal Rehabilitation and Economic  
42 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any  
43 project located in the Atlantic City Tourism District as established  
44 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated  
45 by the Casino Reinvestment Development Authority, and which  
46 will include a retail facility of at least 150,000 square feet, of which  
47 at least 50 percent will be occupied by either a full-service

1 supermarket or grocery store, the authority shall accept a standard  
2 of service generally accepted by custom or practice as full-time  
3 employment in a supermarket, grocery store, or other like retail  
4 industry.<sup>2</sup>

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

7 <sup>2</sup>"Garden State Growth Zone" or "growth zone" means the four  
8 New Jersey cities with the lowest median family income based on  
9 the 2009 American Community Survey from the US Census, (Table  
10 708. Household, Family, and Per Capita Income and Individuals,  
11 and Families Below Poverty Level by City: 2009).

12 "Highlands development credit receiving area or redevelopment  
13 area" means an area located within a qualified incentive area and  
14 designated by the Highlands Council for the receipt of Highlands  
15 Development Credits under the Highlands Transfer Development  
16 Rights Program authorized pursuant to section 13 of P.L.2004,  
17 c.120 (C.13:20-13).<sup>2</sup>

18 "Incentive agreement" means the contract between the business  
19 and the authority, which sets forth the terms and conditions under  
20 which the business shall be eligible to receive the incentives  
21 authorized pursuant to the program.

22 "Incentive effective date" means the date the authority issues a  
23 tax credit based on documentation submitted by a business pursuant  
24 to paragraph (1) of subsection b. of section 6 of P.L.2011, c.149  
25 (C.34:1B-247).

26 "Major rail station" means a railroad station located within a  
27 qualified incentive area which provides access to the public to a  
28 minimum of six rail passenger service lines operated by the New  
29 Jersey Transit Corporation.

30 "Mega project" means:

31 a. a qualified business facility located in a port district housing  
32 a business in the logistics, manufacturing, energy, defense, or  
33 maritime industries, either:

34 (1) having a capital investment in excess of \$20,000,000, and at  
35 which more than 250 full-time employees of such business are  
36 created or retained, or

37 (2) at which more than 1,000 full-time employees of such  
38 business are created or retained;

39 b. a qualified business facility located in an aviation district  
40 housing a business in the aviation industry, <sup>2</sup>in a Garden State  
41 Growth Zone, or in a priority area housing the United States  
42 headquarters and related facilities of an automobile manufacturer,<sup>2</sup>  
43 either:

44 (1) having a capital investment in excess of \$20,000,000, and at  
45 which more than 250 full-time employees of such business are  
46 created or retained, or

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

3 c. a qualified business facility located in an urban transit hub  
4 housing a business of any kind, having a capital investment in  
5 excess of \$50,000,000, and at which more than 250 full-time  
6 employees of a business are created or retained.

7 “Minimum environmental and sustainability standards” means  
8 standards established by the authority in accordance with the green  
9 building manual prepared by the Commissioner of Community  
10 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),  
11 regarding the use of renewable energy, energy-efficient technology,  
12 and non-renewable resources in order to reduce environmental  
13 degradation and encourage long-term cost reduction.

14 “Moderate-income housing” means housing affordable,  
15 according to United States Department of Housing and Urban  
16 Development or other recognized standards for home ownership  
17 and rental costs, and occupied or reserved for occupancy by  
18 households with a gross household income equal to more than 50  
19 percent but less than 80 percent of the median gross household  
20 income for households of the same size within the housing region in  
21 which the housing is located.

22 <sup>2</sup>“Municipal Revitalization Index” means the 2007 index by the  
23 Office for Planning Advocacy within the Department of State  
24 measuring or ranking municipal distress.<sup>2</sup>

25 “New full-time job” means an eligible position created by the  
26 business at the qualified business facility that did not previously  
27 exist in this State. For the purposes of determining a number of  
28 new full-time jobs, the eligible positions of an affiliate shall be  
29 considered eligible positions of the business.

30 “Other eligible area” means the portions of the qualified  
31 incentive area that are not located within a distressed municipality,  
32 or the priority area.

33 <sup>2</sup>“Priority area” means the portions of the qualified incentive  
34 area that are not located within a distressed municipality and which:

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

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

46 c. are the proposed site of a disaster recovery project, a  
47 qualified incubator facility, a tourism destination project, or transit  
48 oriented development; or

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

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

9 “Port district” means the portions of <sup>2</sup>[the] a<sup>2</sup> qualified incentive  
10 area that are located within <sup>2</sup>[a 15-mile radius of the outermost  
11 boundary of: each marine terminal facility operated by]:

12 a. the port district of<sup>2</sup> the Port Authority of New York and New  
13 Jersey, as defined in Article II of the Compact Between the States  
14 of New York and New Jersey of 1921; <sup>2</sup>[and] or

15 b. a 15-mile radius of the outermost boundary of<sup>2</sup> each marine  
16 terminal <sup>2</sup>facility<sup>2</sup> established, acquired, constructed,  
17 rehabilitated<sup>2,2</sup> or improved by the South Jersey Port District  
18 established pursuant to “The South Jersey Port Corporation Act,”  
19 P.L.1968, c.60 (C.12:11A-1 et seq.).

20 <sup>2</sup>“Priority area” means the portions of the qualified incentive  
21 area that are not located within a distressed municipality and which:

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

30 b. intersect with portions of: a deep poverty pocket, a port  
31 district, or federally-owned land approved for closure under a  
32 federal Base Realignment Closing Commission action;

33 c. are the proposed site of a disaster recovery project, a  
34 qualified incubator facility, a highlands development credit  
35 receiving area or redevelopment area, a tourism destination project,  
36 or transit oriented development; or

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

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

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

1 "Qualified business facility" means any building, complex of  
2 buildings or structural components of buildings, and all machinery  
3 and equipment located within a qualified incentive area, used in  
4 connection with the operation of a business <sup>2</sup>that is not engaged in  
5 final point of sale retail business at that location unless the building,  
6 complex of buildings or structural components of buildings, and all  
7 machinery and equipment located within a qualified incentive area,  
8 are used in connection with the operation of:

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

13 b. a tourism destination project located in the Atlantic City  
14 Tourism District as established pursuant to section 5 of P.L.2011,  
15 c.18 (C.5:12-219)<sup>2</sup>.

16 "Qualified incentive area" means:

17 a. <sup>2</sup>an aviation district;

18 b. a port district;

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

20 d.<sup>2</sup> an area (1) designated pursuant to the "State Planning Act,"  
21 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

22 (a) Planning Area 1 (Metropolitan) <sup>3</sup>[,] <sup>3</sup>;

23 (b) Planning Area 2 (Suburban) <sup>3</sup>[,] <sup>3</sup> [or any urban, regional,  
24 or town] <sup>3</sup>or<sup>3</sup>

25 (c) Planning Area 3 (Fringe Planning Area) <sup>3</sup>[, <sup>2</sup>or<sup>2</sup>

26 (d)]<sup>3</sup> <sup>2</sup>[a designated center under the State Development and  
27 Redevelopment Plan]<sup>2</sup> [; an area zoned for development pursuant  
28 to] <sup>2</sup>[, or

29 (e) a designated growth center in an endorsed plan until June 30,  
30 2013, or until the State Planning Commission revises and readopts  
31 New Jersey's State Strategic Plan and adopts regulations to revise  
32 this definition as it pertains to Statewide planning areas, whichever  
33 is later] <sup>3</sup>[Planning Area 4A (Rural Planning Area)<sup>2</sup>]<sup>3</sup>;

34 (2) located within a smart growth area and planning area  
35 designated in a master plan adopted by the New Jersey  
36 Meadowlands Commission pursuant to subsection (i) of section 6 of  
37 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan  
38 adopted by the New Jersey Meadowlands Commission pursuant to  
39 section 20 of P.L.1968, c.404 (C.13:17-21);

40 (3) located within any land owned by the New Jersey Sports and  
41 Exposition Authority, established pursuant to P.L.1971, c.137  
42 (C.5:10-1 et seq.), within the boundaries of the Hackensack  
43 Meadowlands District as delineated in section 4 of P.L.1968, c.404  
44 (C.13:17-4);

45 (4) located within a [pinelands] regional growth area, [a  
46 pinelands] town <sup>2</sup>[management area]<sup>2</sup>, [a pinelands village,]

1 <sup>2</sup>village,<sup>2</sup> or a military and federal installation area [established  
2 pursuant to] designated in the [pinelands] comprehensive  
3 management plan prepared and adopted by the Pinelands  
4 Commission pursuant to the "Pinelands Protection Act," P.L.1979,  
5 c.111 (C.13:18A-1 et seq.); [an area designated for development,  
6 redevelopment, or economic growth within the Highlands Region;  
7 federally owned] <sup>2</sup>[or]<sup>2</sup>

8 (5) located within <sup>2</sup>the planning area of the Highlands Region as  
9 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
10 development credit receiving area or redevelopment area;

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

12 (7) located within<sup>2</sup> land approved for closure under any federal  
13 Base Closure and Realignment Commission action [or any property  
14 consisting of a vacant commercial building having over 400,000  
15 square feet of office, laboratory, or industrial space available for  
16 occupancy for a period of over one year or is negatively impacted  
17 by the approval of a "qualified business facility," as defined  
18 pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208)]; <sup>2</sup>[but  
19 excluding

20 b. an area designated in the 2008 Highlands Regional Master  
21 Plan, adopted pursuant to the "Highlands Water Protection and  
22 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless located  
23 within:

24 (1) (a) the Existing Community Zone, or  
25 (b) a Highlands center, designated by the Highlands Water  
26 Protection and Planning Council, established pursuant to section 4  
27 of P.L.2004, c.120 (C.13:20-4); which area is not located within:

28 (2) (a) the Protection Zone,  
29 (b) the Conservation Zone, or  
30 (c) an Environmentally Constrained Sub-Zone] or

31 (8) located only within the following portions of the areas  
32 designated pursuant to the "State Planning Act," P.L.1985, c.398  
33 (C.52:18A-196 et al.), as <sup>3</sup>Planning Area 4A (Rural Planning  
34 Area),<sup>3</sup> Planning Area 4B (Rural/Environmentally Sensitive) or  
35 Planning Area 5 (Environmentally Sensitive) if <sup>3</sup>Planning Area 4A  
36 (Rural Planning Area),<sup>3</sup> Planning Area 4B (Rural/Environmentally  
37 Sensitive) or Planning Area 5 (Environmentally Sensitive) is  
38 located within:

39 (a) a designated center under the State Development and  
40 Redevelopment Plan;

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

45 (c) any area determined to be in need of redevelopment pursuant  
46 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-

1 6) or in need of rehabilitation pursuant to section 14 of P.L.1992,  
2 c.79 (C.40A:12A-14);

3 (d) any area on which a structure exists or previously existed  
4 including any desired expansion of the footprint of the existing or  
5 previously existing structure provided such expansion otherwise  
6 complies with all applicable federal, State, county, and local  
7 permits and approvals;

8 (e) <sup>3</sup>[any] the<sup>3</sup> planning area of the Highlands Region as defined  
9 in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
10 development credit receiving area or redevelopment area; or

11 (f) any area on which an existing tourism destination project is  
12 located.

13 "Qualified incentive area" shall not include any property located  
14 within the preservation area of the Highlands Region as defined in  
15 the "Highlands Water Protection and Planning Act," P.L.2004,  
16 c.120 (C.13:20-1 et al.)<sup>2</sup> .

17 "Qualified incubator facility" means a commercial building  
18 located within a qualified incentive area: which contains 100,000 or  
19 more square feet of office, laboratory, or industrial space; which is  
20 located near, and presents opportunities for collaboration with, a  
21 research institution, teaching hospital, college, or university; and  
22 within which, at least 75 percent of the gross leasable area is  
23 restricted for use by one or more technology startup companies  
24 during the commitment period.

25 "Retained full-time job" means an eligible position that currently  
26 exists in New Jersey and is filled by a full-time employee but  
27 which, because of a potential relocation by the business, is at risk of  
28 being lost to another state or country <sup>2</sup>, or eliminated<sup>2</sup> . For the  
29 purposes of determining a number of retained full-time jobs, the  
30 eligible positions of an affiliate shall be considered eligible  
31 positions of the business.

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

34 "SDA municipality" means a municipality in which an SDA  
35 district is situate.

36 "Targeted industry" means any industry identified from time to  
37 time by the authority including initially, a transportation,  
38 manufacturing, defense, energy, logistics, life sciences, technology,  
39 health, and finance business, but excluding a primarily warehouse  
40 or distribution business.

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

46 "Tourism destination project" means a qualified business facility  
47 that will be among the most visited privately owned or operated

1 tourism or recreation sites in the State <sup>1</sup> [as determined at the  
2 discretion of the authority] , and which is located within the  
3 qualified incentive area and has been determined by the authority to  
4 be in an area appropriate for development and in need of economic  
5 development incentive assistance<sup>1</sup> .

6 “Transit oriented development” means a qualified business  
7 facility located within a 1/2-mile radius <sup>2</sup> , or one-mile radius for  
8 projects located in a Garden State Growth Zone,<sup>2</sup> surrounding the  
9 mid-point of a New Jersey Transit Corporation, Port Authority  
10 Transit Corporation, or Port Authority Trans-Hudson Corporation  
11 rail, bus, or ferry station platform area, including all light rail  
12 stations.

13 “Urban transit hub” means an urban transit hub, as defined in  
14 section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within  
15 an eligible municipality, as defined in section 10 of P.L.2007, c.346  
16 (C.34:1B-208) and also located within a qualified incentive area.

17 <sup>2</sup>“Urban transit hub municipality” means a municipality: a.  
18 which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-  
19 178 et seq.), or which has continued to be a qualified municipality  
20 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent  
21 or more of the value of real property was exempt from local  
22 property taxation during tax year 2006. The percentage of exempt  
23 property shall be calculated by dividing the total exempt value by  
24 the sum of the net valuation which is taxable and that which is tax  
25 exempt.<sup>2</sup>

26 (cf: P.L.2011, c.149, s.2)

27

28 8. Section 3 of P.L.2011, c.149 (C.34:1B-244) is amended to  
29 read as follows:

30 3. a. The Grow New Jersey Assistance Program is hereby  
31 established as a program under the jurisdiction of the New Jersey  
32 Economic Development Authority and shall be administered by the  
33 authority. The purpose of the program is to encourage economic  
34 development and job creation and to preserve jobs that currently  
35 exist in New Jersey but which are in danger of being relocated  
36 outside of the State. To implement this purpose, **[**and to the extent  
37 that funding for the program is available,**]** the program may provide  
38 tax credits to eligible businesses for an eligibility period not to  
39 exceed 10 years.

40 To be eligible for any tax credits pursuant to P.L.2011, c.149  
41 (C.34:1B-242 et al.), business's chief executive officer or equivalent  
42 officer shall demonstrate to the authority, at the time of application,  
43 that:

44 (1) the business, expressly including its landlord or seller, will  
45 make, acquire, or lease a capital investment **[**of at least  
46 **\$20,000,000]** equal to, or greater than, the applicable amount set



1 forth in subsection b. of this section at a qualified business facility  
2 at which it will:

3 (a) **【employ at least 100 full-time employees in retained】** retain  
4 full-time jobs in an amount equal to or greater than the applicable  
5 number set forth in subsection c. of this section **【, or】** ;

6 (b) create **【at least 100】** new full-time jobs **【in an industry**  
7 **identified by the authority as desirable for the State to maintain or**  
8 **attract; (2)】** in an amount equal to or greater than the applicable  
9 number set forth in subsection c. of this section; or

10 (c) in combination, retain full-time jobs and create new full-time  
11 jobs in an amount equal to or greater than the applicable number set  
12 forth in subsection c. of this section;

13 (2) the qualified business facility shall be constructed in  
14 accordance with the minimum environmental and sustainability  
15 standards;

16 (3) the capital investment resultant from the award of tax credits  
17 and the resultant retention and creation of **【eligible positions】** full-  
18 time jobs will yield a net positive benefit to the State, equaling at  
19 least 110 percent of the requested tax credit allocation amount,  
20 which determination <sup>2</sup>is calculated prior to taking into account the  
21 value of the requested tax credit and<sup>2</sup> shall be based on the benefits  
22 generated during the first 20 years following the completion of the  
23 project, except that for a mega project <sup>2</sup>or a project located in a  
24 Garden State Growth Zone<sup>2</sup> , the determination shall be based on  
25 the benefits generated during a period of up to 30 years following  
26 the completion of the project, as determined by the authority <sup>2</sup>, and  
27 except that, for a project located in a Garden State Growth Zone  
28 which qualified for the "Municipal Rehabilitation and Economic  
29 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net  
30 positive benefit determination shall be based on the benefits  
31 generated during a period of up to 35 years following completion of  
32 the project, as determined by the authority, and shall equal at least  
33 100 percent of the requested tax credit allocation amount and may  
34 utilize the value of those property taxes subject to the provisions of  
35 section <sup>4</sup>**【26】** 24<sup>4</sup> of P.L. , c. (C. ) (pending before the  
36 Legislature as this bill) and incremental sales and excise taxes that  
37 are derived from activities within the area and which are rebated or  
38 retained by the municipality pursuant to the "New Jersey Urban  
39 Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or  
40 any other law providing for such rebate or retention<sup>2</sup>; and,

41 (4) except as provided in subsection **【d.】** f. of this section, **【(3)】**  
42 the award of tax credits will be a material factor in the business's  
43 decision to create or retain the minimum number of new or retained  
44 full-time jobs for eligibility under the program.

45 With respect to the provisions of paragraph (3) of this  
46 subsection, in the case of a <sup>2</sup>**【logistics, manufacturing, energy,**

1 defense, aviation, or maritime business, excluding a primarily  
2 warehouse or distribution business】 project located in a Garden  
3 State Growth Zone<sup>2</sup> , the authority, in its discretion, may award  
4 <sup>2</sup>【bonus points】 bonuses<sup>2</sup> in its net positive benefit calculation.

5 b. The minimum capital investment required to be eligible under  
6 this program shall be as follows:

7 (1) for the rehabilitation <sup>2</sup>, improvement, fit-out, or retrofit<sup>2</sup> of an  
8 existing industrial premises for continued industrial use by the  
9 business, a minimum investment of \$20 per square foot of gross  
10 leasable area;

11 (2) for the new construction of an industrial premises for  
12 industrial use by the business, a minimum investment of \$60 per  
13 square foot of gross leasable area;

14 (3) for the rehabilitation <sup>2</sup>, improvement, fit-out, or retrofit<sup>2</sup> of an  
15 existing non-industrial premises for continued non-industrial use by  
16 the business, a minimum investment of \$40 per square foot of gross  
17 leasable area; and

18 (4) for the new construction of a non-industrial premises for non-  
19 industrial use by the business, a minimum investment of \$120 per  
20 square foot of gross leasable area.

21 <sup>2</sup>The minimum capital investment required by this subsection  
22 shall be reduced by one-third for projects located in a Garden State  
23 Growth Zone or projects located within Atlantic, Burlington,  
24 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem  
25 counties.<sup>2</sup>

26 c. The minimum number of new or retained full-time jobs  
27 required to be eligible under this program shall be as follows:

28 (1) for a business that is a technology startup company or a  
29 manufacturing company, a minimum of 10 new or 25 retained full-  
30 time jobs;

31 (2) for a business engaged primarily in a targeted industry other  
32 than a technology startup company or a manufacturing company, a  
33 minimum of 25 new or 35 retained full-time jobs; and

34 (3) for any other business, a minimum of 35 new or 50 retained  
35 full-time jobs.

36 <sup>2</sup>The minimum number of new or retained full-time jobs required  
37 by this subsection shall be reduced by one-quarter for projects  
38 located in a Garden State Growth Zone or projects located within  
39 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,  
40 Ocean, or Salem counties.<sup>2</sup>

41 d. To assist the authority in determining whether a proposed  
42 capital investment will yield a net positive benefit, the business's  
43 chief executive officer, or equivalent officer, shall submit a  
44 certification to the authority indicating <sup>2</sup>; (1)<sup>2</sup> that any 【existing】  
45 <sup>2</sup>【retained】 existing<sup>2</sup> full-time jobs are at risk of leaving the State  
46 <sup>2</sup>【and the date or dates at which it is expected that those full-time  
47 jobs would leave the State,】 or being eliminated; (2)<sup>2</sup> that any

1 projected creation <sup>2</sup>or retention, as applicable,<sup>2</sup> of new full-time  
2 jobs would not occur but for the provision of tax credits under the  
3 program <sup>2</sup>[1]<sup>2</sup> and <sup>2</sup>(3)<sup>2</sup> that the business's chief executive officer,  
4 or equivalent officer, has reviewed the information submitted to the  
5 authority and that the representations contained therein are  
6 accurate<sup>2</sup>, provided however, that in satisfaction of the provisions  
7 of paragraphs (1) and (2) of this subsection, the certification with  
8 respect to a project in a Garden State Growth Zone that qualifies  
9 under the "Municipal Rehabilitation and Economic Recovery Act,"  
10 P.L.2002, c.43 (C.52:27BBB-1 et al.), shall indicate that, the  
11 provision of tax credits under the program is a material factor in the  
12 business decision to make a capital investment and locate in a  
13 Garden State Growth Zone that qualifies under the "Municipal  
14 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
15 (C.52:27BBB-1 et al.)<sup>2</sup> . In the event that this certification by the  
16 business's chief executive officer, or equivalent officer, is found to  
17 be willfully false, the authority may revoke any award of tax credits  
18 in their entirety, which revocation shall be in addition to any other  
19 criminal or civil penalties that the business and the officer may be  
20 subject to. When considering an application involving intra-State  
21 job transfers, the authority shall require the business to submit the  
22 following information as part of its application: a full economic  
23 analysis of all locations under consideration by the business; all  
24 lease agreements, ownership documents, or substantially similar  
25 documentation for the business's current in-State locations; and all  
26 lease agreements, ownership documents, or substantially similar  
27 documentation for the potential out-of-State location alternatives, to  
28 the extent they exist. Based on this information, and any other  
29 information deemed relevant by the authority, the authority shall  
30 independently verify and confirm, by way of making a factual  
31 finding by separate vote of the authority's board, the business's  
32 assertion that the jobs are actually at risk of leaving the State, and  
33 as to the date or dates at which the authority expects that those jobs  
34 would actually leave the State <sup>2</sup>, or, with respect to projects located  
35 in a Garden State Growth Zone that qualifies under the "Municipal  
36 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
37 (C.52:27BBB-1 et al.), the business's assertion that the provision of  
38 tax credits under the program is a material factor in the business's  
39 decision to make a capital investment and locate in a Garden State  
40 Growth Zone that qualifies under the "Municipal Rehabilitation and  
41 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),<sup>2</sup>  
42 before a business may be awarded any tax credits under this section.

43 **[c.] e.** A project that consists solely of point-of-final-purchase  
44 retail facilities shall not be eligible for a grant of tax credits. If a  
45 project consists of both point-of-final-purchase retail facilities and  
46 non-retail facilities, only the portion of the project consisting of  
47 non-retail facilities shall be eligible for a grant of tax credits. <sup>2</sup>In a

1 Garden State Growth Zone or the Atlantic City Tourism District as  
2 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and  
3 regulated by the Casino Reinvestment Development Authority, up  
4 to 7.5 percent of retail facilities included in a mixed use project  
5 shall be eligible for a grant of tax credits along with the non-retail  
6 facilities.<sup>2</sup> If a warehouse facility is part of a point-of-final-  
7 purchase retail facility and supplies only that facility, the warehouse  
8 facility shall not be eligible for a grant of tax credits. For the  
9 purposes of this section, <sup>2</sup>a retail facility of at least 150,000 square  
10 feet, of which at least 50 percent is occupied by a full-service  
11 supermarket or grocery store, located in a Garden State Growth  
12 Zone which qualified under the "Municipal Rehabilitation and  
13 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or  
14 a tourism destination project in the Atlantic City Tourism District as  
15 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219),  
16 or<sup>2</sup> catalog distribution centers shall not be considered point-of-  
17 final-purchase retail facilities.

18 **[d.] f.** The authority may determine as eligible for tax credits  
19 under the program any business that is required to respond to a  
20 request for proposals and to fulfill a contract with the federal  
21 government although the business's chief executive officer or  
22 equivalent officer has not demonstrated to the authority that the  
23 award of tax credits will be a material factor in the business's  
24 decision to retain **[at least 100]** the minimum number of retained  
25 full-time jobs, as otherwise required by [paragraph (3) of  
26 subsection a. of] this section. The authority may, in its discretion,  
27 consider the economic benefit of the retained jobs servicing the  
28 contract in conducting a net benefit analysis required by paragraph  
29 **[(2)]** <sup>2</sup>**[4]** <sup>2</sup>**(4)** of subsection a. of this section. For the purposes of  
30 this subsection, "retained full-time jobs" includes jobs that are at  
31 risk of being eliminated. Applications to the authority for eligibility  
32 under the program pursuant to the criteria set forth in this  
33 subsection shall be completed by **[March]** <sup>4</sup>**[July]** December<sup>4</sup> 31,  
34 **[2012]** 2013. Submission of a proposal to the federal government  
35 prior to authority approval shall not disqualify a business from the  
36 program.

37 g. Nothing shall preclude a business from applying for tax  
38 credits under the program for more than one project pursuant to one  
39 or more applications.

40 (cf: P.L.2011, c.149, s.3)

41

42 9. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to  
43 read as follows:

44 4. The authority shall require an eligible business to enter into  
45 an incentive agreement prior to the issuance of tax credits. The  
46 incentive agreement shall include, but shall not be limited to, the  
47 following:

- 1 a. A detailed description of the proposed project which will  
2 result in job creation or retention, and the number of new or  
3 retained full-time **【employees】** jobs that are approved for tax  
4 credits.
- 5 b. The **【term】** eligibility period of the tax credits, **【and】**  
6 including the first year for which the tax credits may be claimed.
- 7 c. Personnel information that will enable the authority to  
8 administer the program.
- 9 d. A requirement that the applicant maintain the project at a  
10 location in New Jersey **【at least 1.5 times the number of years of**  
11 **the term of the tax credits】** for the commitment period, with at least  
12 the minimum number of full-time employees as required by  
13 **【section 6 of P.L.2011, c.149 (C.34:1B-247)】** this program, and a  
14 provision to permit the authority to recapture all or part of any tax  
15 **【credit】** credits awarded, at its discretion, if the business does not  
16 remain **【at the site】** in compliance with this provision for the  
17 required term <sup>2</sup>, and in the instance of the business terminating an  
18 existing incentive agreement in order to participate in an incentive  
19 agreement authorized pursuant to the “New Jersey Economic  
20 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
21 Legislature as this bill)<sup>2</sup>, <sup>2</sup>**【with】<sup>2</sup>** such permitted recapture <sup>2</sup>**【not to**  
22 exceed the portion of the tax credits as were awarded for periods  
23 when the business was not in compliance with this provision】 may  
24 be calculated to recognize the period of time that the business was  
25 in compliance prior to termination<sup>2</sup>.
- 26 e. A method for the business to certify that it has met the  
27 capital investment and employment requirements of the program  
28 pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011,  
29 c.149 (C.34:1B-244) and to report annually to the authority the  
30 number of full-time employees for which the tax credits are to be  
31 made.
- 32 f. A provision permitting an audit of the payroll records of the  
33 business from time to time, as the authority deems necessary.
- 34 g. A provision which permits the authority to amend the  
35 agreement.
- 36 h. A provision establishing the conditions under which the  
37 agreement may be terminated **【and awarded tax credits are**  
38 **recaptured, in whole or in part, by the authority at its discretion】**.
- 39 <sup>4</sup>i. (1) A requirement that each worker employed to perform  
40 construction work at the qualified business facility shall be paid not  
41 less than the prevailing wage rate, consistent with the requirements  
42 of section 1 of P.L.1979, c.303 (C.34:1B-5.1); and  
43 (2) A requirement that each worker employed to perform  
44 building maintenance services at a qualified business facility by a  
45 business or a tenant or subcontractor of a business shall be paid not  
46 less than the prevailing wage rate for the worker’s craft or trade as

1 determined by the Commissioner of Labor and Workforce  
2 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)  
3 and P.L.2005, c.379 (C.34:11-56.58 et seq.).<sup>4</sup> <sup>2</sup>【This requirement  
4 shall survive the termination of the incentive agreement.】<sup>2</sup>

5 (cf: P.L.2011, c.149, s.4)

6

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

9 5. a. The **【value】** total amount of **【each】** tax credit for an  
10 eligible business **【shall be equal to \$5,000 per year for a period of**  
11 **ten years】** for each new or retained full-time job **【determined by the**  
12 **authority pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244) to**  
13 **be located at the qualified business facility, subject to the provisions**  
14 **of this section】** shall be as set forth in subsections b. through <sup>2</sup>**【e.】**  
15 **f.**<sup>2</sup> of this section. The total tax credit amount shall be calculated  
16 and credited to the business annually for each year of the eligibility  
17 period<sup>2</sup>. Notwithstanding any other provisions of P.L. ,  
18 c. (C. ) (pending before the Legislature as this bill), a  
19 business may assign its ability to apply for the tax credit under this  
20 subsection to a non-profit organization with a mission dedicated to  
21 attracting investment and completing development and  
22 redevelopment projects in a Garden State Growth Zone<sup>2</sup>.

23 b. **【In addition to any grant of tax credits determined pursuant**  
24 **to subsection a. of this section, a bonus award of up to an additional**  
25 **\$3,000 per job of the amount of the original tax credits may be**  
26 **made to any eligible business as determined by the authority. In**  
27 **making a bonus award to an eligible business, the authority shall**  
28 **consider the following factors, such that whether the business: (1) is**  
29 **an industry identified by the authority as desirable for the State to**  
30 **maintain or attract; (2) locates or relocates to a location within a**  
31 **qualified incentive area adjacent to, or within walking distance or**  
32 **short-distance-shuttle service of, a public transit facility, as**  
33 **determined by the authority, by regulation; (3) creates jobs using**  
34 **full-time employees in eligible positions whose annual salaries,**  
35 **according to the Department of Labor and Workforce Development,**  
36 **are greater than the average full-time salary in this State; or (4) is**  
37 **locating to a project site that is or has been negatively impacted by**  
38 **the approval of a "qualified business facility," as defined pursuant**  
39 **to section 2 of P.L.2007, c.346 (C.34:1B-208).】** The base amount  
40 of the tax credit for each new or retained full-time job shall be as  
41 follows:

42 (1) for a qualified business facility located within an urban  
43 transit hub <sup>2</sup>municipality or Garden State Growth Zone<sup>2</sup> or is a  
44 mega project, \$5,000 per year;

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

1       (3) for a project in a priority area, <sup>2</sup>[\$2,500] \$3,000<sup>2</sup> per year;  
2       and

3       (4) for a project in other eligible areas, <sup>2</sup>[\$1,500] \$500<sup>2</sup> per  
4       year.

5       c. **【Notwithstanding the provisions of subsections a. and b. of**  
6       **this section, (1) the amount of tax credits available to be applied by**  
7       **the business annually shall not exceed the lesser of one tenth of the**  
8       **capital investment certified by the authority pursuant to section 6 of**  
9       **P.L.2011, c.149 (C.34:1B-247) or \$4,000,000, and (2) the number**  
10       **of new full-time jobs for which a business receives a tax credit shall**  
11       **not exceed the number of retained full-time jobs for which a**  
12       **business receives a tax credit, unless the business qualifies by**  
13       **creating at least 100 new full-time jobs in an industry identified by**  
14       **the authority as desirable for the State to maintain or attract.】 In**  
15       addition to the base amount of the tax credit, the amount of the tax  
16       credit to be awarded for each new or retained full-time job shall be  
17       increased if the qualified business facility meets any of the  
18       following priority criteria or other additional or replacement criteria  
19       determined by the authority from time to time in response to  
20       evolving economic or market conditions:

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

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

27       (3) for a qualified business facility located in a mixed-use  
28       development that incorporates sufficient moderate income housing  
29       on site to accommodate a minimum of 20 percent of the full-time  
30       employees of the business, an increase of \$500 per year;

31       (4) for a qualified business facility located within a transit  
32       oriented development, an increase of \$2,000 per year;

33       (5) <sup>2</sup>【for a qualified business facility not eligible for the increase  
34       set forth in paragraph (4) of this subsection and at which a shuttle  
35       service is available to a commuter rail, bus, or ferry station during  
36       rush hour periods on all business days during the commitment  
37       period, an increase of \$1,000 per year;

38       (6) for a qualified business facility whose location includes or is  
39       directly connected by rail spur to a freight rail line if the applicant  
40       utilizes that freight line as a regular part of the operation of its  
41       business during the commitment period, an increase of \$2,000 per  
42       year;

43       (7) for a qualified business facility not eligible for the increase  
44       set forth in paragraph (6) of this subsection and whose location is  
45       within one mile of a freight rail line spur if the applicant utilizes  
46       that freight line as a regular part of the operation of its business  
47       during the commitment period, an increase of \$1,000 per year;

1       (8)]<sup>2</sup> for a qualified business facility, other than a mega project,  
2       at which the capital investment in industrial premises for industrial  
3       use by the business is in excess of the minimum capital investment  
4       required for eligibility pursuant to subsection b. of section 3 of  
5       P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for  
6       each additional amount of investment that exceeds the minimum  
7       amount required for eligibility by 20 percent, with a maximum  
8       increase of <sup>2</sup>[\$3,000] \$3,000<sup>2</sup> per year;

9       <sup>2</sup>[(9)] (6)<sup>2</sup> for a business with new full-time jobs and retained  
10       full-time jobs at the project with an average salary in excess of the  
11       existing average salary for the county in which the project is  
12       located, <sup>2</sup>or, in the case of a project in a Garden State Growth Zone,  
13       a business that employs full-time positions at the project with an  
14       average salary in excess of the average salary for the Garden State  
15       Growth Zone,<sup>2</sup> an increase of \$250 per year during the commitment  
16       period for each 35 percent by which the project's average salary  
17       levels exceeds the county <sup>2</sup>or Garden State Growth Zone<sup>2</sup> average  
18       salary, with a maximum increase of \$1,500 per year;

19       <sup>2</sup>[(10)] (7)<sup>2</sup> for a business with large numbers of new full-time  
20       jobs and retained full-time jobs during the commitment period, the  
21       increases shall be in accordance with the following schedule:

22       (a) if the number of new full-time jobs and retained full-time  
23       jobs is between 251 and 400, \$500 per year;

24       (b) if the number of new full-time jobs and retained full-time  
25       jobs is between 401 and 600, \$750 per year;

26       (c) if the number of new full-time jobs and retained full-time  
27       jobs is between 601 and 800, \$1000 per year;

28       (d) if the number of new full-time jobs and retained full-time  
29       jobs is between 801 and 1,000, \$1,250 per year;

30       (e) <sup>2</sup>[if the number of new full-time jobs and retained full-time  
31       jobs is between 1,001 and 1,200, \$1,500 per year;

32       (f) if the number of new full-time jobs and retained full-time jobs  
33       is between 1,201 and 1,400, \$1,750 per year;

34       (g) if the number of new full-time jobs and retained full-time  
35       jobs is between 1,401 and 1,600, \$2,000 per year;

36       (h) if the number of new full-time jobs and retained full-time  
37       jobs is between 1,601 and 1,800, \$2,250 per year;

38       (i)]<sup>2</sup> if the number of new full-time jobs and retained full-time  
39       jobs is in excess of <sup>2</sup>[1,800] 1,000<sup>2</sup> , <sup>2</sup>[\$2,500] \$1,500<sup>2</sup> per year;

40       <sup>2</sup>[(11)] (8)<sup>2</sup> for a business in a targeted industry, an increase of  
41       \$500 per year;

42       <sup>2</sup>[(12)] for a business that employs a significant number of  
43       chronically unemployed or military veterans during the commitment  
44       period, an increase of \$200 per year for each 10 percent of the new  
45       full-time jobs that are filled by full-time employees that are either  
46       chronically unemployed or military veterans, with a maximum  
47       increase of \$1,000 per year;



1       (13) for a qualified business facility materially exceeding the  
2 minimum environmental and sustainability standards by way of  
3 energy efficiency or renewable energy features, measures, or  
4 upgrades, an increase of \$250 per year;

5       ~~(14)~~ <sup>2</sup> (9) for a qualified business facility exceeding the  
6 Leadership in Energy and Environmental Design’s “Silver” rating  
7 standards<sup>2</sup> or completes substantial environmental remediation<sup>2</sup>, an  
8 additional increase of \$250 per year; <sup>2</sup> and

9       ~~(15)~~ <sup>2</sup> (10) for a mega project<sup>2</sup> or a project located within a  
10 Garden State Growth Zone<sup>2</sup> at which the capital investment in  
11 industrial premises for industrial use by the business is in excess of  
12 the minimum capital investment required for eligibility pursuant to  
13 subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an  
14 increase of \$1,000 per year for each additional amount of  
15 investment that exceeds the minimum amount by 20 percent, with a  
16 maximum increase of \$5,000 per year<sup>2</sup>;

17       (11) for a project in which a business retains at least 400 jobs  
18 and is located within the municipality in which it was located  
19 immediately prior to the filing of the application hereunder and is  
20 the United States headquarters of an automobile manufacturer, an  
21 increase of \$1,500 per year;

22       (12) for a project located in a municipality in Atlantic,  
23 Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean,  
24 and Salem counties with a 2007 Municipality Revitalization Index  
25 greater than 465, an increase of \$1,000 per year;

26       (13) for a project located within a half-mile of any light rail  
27 station constructed after the effective date of P.L. \_\_\_\_\_, c. \_\_\_\_\_  
28 (pending before the Legislature as this bill), an increase of \$1,000  
29 per year;

30       (14) for a marine terminal project in a municipality located  
31 outside the Garden State Growth Zone, but within the geographical  
32 boundaries of the South Jersey Port District, an increase of \$1,500  
33 per year;

34       (15) for a project located within an area determined to be in need  
35 of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79  
36 (C.40A:12A-5 and C.40A:12A-6), and which is located within a  
37 quarter mile of at least one United States Highway and at least two  
38 New Jersey State Highways, an increase of \$1,500 per year; and

39       (16) for a project that generates solar energy on site for use  
40 within the project of an amount that equals at least 50 percent of the  
41 project’s electric supply service needs, an increase of \$250 per  
42 year<sup>2</sup>.

43       d. The gross amount of the tax credit for an eligible business  
44 for each new or retained full-time job shall be the sum of the base  
45 amount as set forth pursuant to subsection b. of this section and the  
46 various additional bonus amounts for which the business is eligible

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

3 (1) for a mega project<sup>2</sup> or a project in a Garden State Growth  
4 Zone<sup>2</sup>, the gross amount for each new or retained full-time job  
5 shall not exceed \$15,000 per year;

6 (2) for a qualified business facility located within an urban  
7 transit hub<sup>2</sup> municipality<sup>2</sup>, the gross amount for each new or  
8 retained full-time job shall not exceed<sup>2</sup> ~~[\$10,000]~~ \$12,000<sup>2</sup> per  
9 year;

10 (3) for a qualified business facility in a distressed municipality  
11 the gross amount for each new or retained full-time job shall not  
12 exceed<sup>2</sup> ~~[\$8,000]~~ \$11,000<sup>2</sup> per year;

13 (4) for a qualified business facility in other priority areas, the  
14 gross amount for each new or retained full-time job shall not exceed  
15 ~~[\$6,000]~~ \$10,500<sup>2</sup> per year; ~~[and]~~<sup>2</sup>

16 (5) for a qualified business facility in other eligible areas, the  
17 gross amount for each new or retained full-time job shall not exceed  
18 ~~[\$4,000]~~ \$6,000<sup>2</sup> per year<sup>2</sup> and;

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

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

26 (a) for a project which creates 35 or more full-time jobs and  
27 makes a capital investment of at least \$5,000,000, the total tax  
28 credit amount per full-time job shall be the greater of: (i) the total  
29 tax credit amount for a qualifying project in a Garden State Growth  
30 Zone as calculated pursuant to subsections a. through f. of this  
31 section; or (ii) the total capital investment of the project divided by  
32 the total number of full-time jobs at that project but not greater than  
33 \$20,000,000 over the grant term;

34 (b) for a project which creates 70 or more full-time jobs and  
35 makes a capital investment of at least \$10,000,000, the total tax  
36 credit amount per full-time job shall be the greater of: (i) the total  
37 tax credit amount for a qualifying project in a Garden State Growth  
38 Zone as calculated pursuant to subsections a. through f. of this  
39 section; or (ii) the total capital investment of the project divided by  
40 the total number of full-time jobs at that project but not greater than  
41 \$30,000,000 over the grant term;

42 (c) for a project which creates 100 or more full-time jobs and  
43 makes a capital investment of at least \$15,000,000, the total tax  
44 credit amount per full-time job shall be the greater of: (i) the total  
45 tax credit amount for a qualifying project in a Garden State Growth  
46 Zone as calculated pursuant to subsections a. through f. of this  
47 section; or (ii) the total capital investment of the project divided by

1 the total number of full-time jobs at that project but not greater than  
2 \$40,000,000 over the grant term;

3 (d) for a project which creates 150 or more full-time jobs and  
4 makes a capital investment of at least \$20,000,000, the total tax  
5 credit amount per full-time job shall be the greater of: (i) the total  
6 tax credit amount for a qualifying project in a Garden State Growth  
7 Zone as calculated pursuant to subsections a. through f. of this  
8 section; or (ii) the total capital investment of the project divided by  
9 the total number of full-time jobs at that project but not greater than  
10 \$50,000,000 over the grant term; or

11 (e) for a project which creates 250 or more full-time jobs and  
12 makes a capital investment of at least \$30,000,000, the total tax  
13 credit amount per full-time job shall be the greater of: (i) the total  
14 tax credit amount for a qualifying project in a Garden State Growth  
15 Zone as calculated pursuant to subsections a. through f. of this  
16 section; or (ii) the total capital investment of the project divided by  
17 the total number of full-time jobs as defined herein at that project<sup>2</sup>.

18 e. After the determination by the authority of the gross amount  
19 of tax credits for which a business is eligible pursuant to subsection  
20 d. of this section, the final total tax credit amount shall be  
21 calculated as follows: (1) for each new full-time job, the business  
22 shall be allowed tax credits equaling 100 percent of the gross  
23 amount of tax credits for each new full-time job; and (2) for each  
24 retained full-time <sup>2</sup>[employee]<sup>2</sup> job, the business shall be allowed  
25 tax credits equaling <sup>2</sup>[75] 50<sup>2</sup> percent of the gross amount of tax  
26 credits for each retained full-time job, <sup>2</sup>unless the jobs are part of a  
27 mega project which is the United States headquarters of an  
28 automobile manufacturer located within a priority area or in a  
29 Garden State Growth Zone, in which case the business shall be  
30 entitled to tax credits equaling 100 percent of the gross amount of  
31 tax credits for each retained full-time job, or<sup>2</sup> unless the new  
32 qualified business facility would replace a facility that has been  
33 wholly or substantially damaged as a result of a federally-declared  
34 disaster, in which case the business shall be entitled to tax credits  
35 equaling 100 percent of the gross amount of tax credits for each  
36 retained full-time job.

37 f. Notwithstanding the provisions of subsections a. through e.  
38 of this section, for each application approved by the authority's  
39 board, the amount of tax credits available to be applied by the  
40 business annually shall not exceed:

41 (1) <sup>2</sup>\$35,000,000 and provides a net benefit to the State as  
42 provided herein with respect to a qualified business facility in a  
43 Garden State Growth Zone which qualifies under the "Municipal  
44 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
45 (C.52:27BBB-1 et al.);

1       (2)<sup>2</sup> \$30,000,000 <sup>2</sup>and provides a net benefit to the State as  
2 provided herein<sup>2</sup> with respect to a mega project <sup>2</sup>or a qualified  
3 business facility in a Garden State Growth Zone<sup>2</sup>:

4       <sup>2</sup>~~[(2)]~~ (3)<sup>2</sup> \$10,000,000 <sup>2</sup>and provides a net benefit to the State  
5 as provided herein<sup>2</sup> with respect to a qualified business facility in  
6 an urban transit hub <sup>2</sup>municipality<sup>2</sup> :

7       <sup>2</sup>~~[(3)]~~ (4)<sup>2</sup> \$8,000,000 <sup>2</sup>and provides a net benefit to the State as  
8 provided herein<sup>2</sup> with respect to a qualified business facility in a  
9 distressed municipality;

10       <sup>2</sup>~~[(4)]~~ (5)<sup>2</sup> \$4,000,000 <sup>2</sup>and provides a net benefit to the State as  
11 provided herein<sup>2</sup> with respect to a qualified business facility in  
12 other priority areas <sup>2</sup>, but not more than 90 percent of the  
13 withholdings of the business from the qualified business facility<sup>2</sup> ;  
14 and

15       <sup>2</sup>~~[(5)]~~ (6)<sup>2</sup> \$2,500,000 <sup>2</sup>and provides a net benefit to the State as  
16 provided herein<sup>2</sup> with respect to a qualified business facility in  
17 other eligible areas <sup>2</sup>, but not more than 90 percent of the  
18 withholdings of the business from the qualified business facility.

19       Under paragraphs (1) through (6) of this subsection, for each  
20 application for tax credits in excess of \$4,000,000 annually, the  
21 amount of tax credits available to be applied by the business  
22 annually shall be the lesser of the maximum amount under the  
23 applicable subsection or an amount determined by the authority  
24 necessary to complete the project, with such determination made by  
25 the authority's utilization of a full economic analysis of all  
26 locations under consideration by the business; all lease agreements,  
27 ownership documents, or substantially similar documentation for  
28 the business's current in-State locations, as applicable; and all lease  
29 agreements, ownership documents, or substantially similar  
30 documentation for the potential out-of-State location alternatives, to  
31 the extent they exist. Based on this information, and any other  
32 information deemed relevant by the authority, the authority shall  
33 independently verify and confirm the amount necessary to complete  
34 the project<sup>2</sup>.

35 (cf: P.L.2011, c.149, s.5)

36  
37       11. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to  
38 read as follows:

39       6. a. (1) The **】**value of all credits approved by the authority  
40 pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed  
41 \$200,000,000, except that the value of all credits approved by the  
42 authority pursuant to this section may exceed \$200,000,000 if the  
43 board of the authority determines the credits to be reasonable,  
44 justifiable, and appropriate; provided, however, the**】** combined  
45 value of all credits approved by the authority pursuant to P.L.2007,  
46 c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et

1 al.) prior to <sup>2</sup>the 90th day after the date of enactment of the “New  
2 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. )  
3 (pending before the Legislature as this bill) December 31, 2013<sup>2</sup>  
4 shall not exceed \$1,750,000,000, except as may be increased by the  
5 authority as set forth in paragraph (5) of subsection a. of P.L.2009,  
6 c.90 (C.34:1B-209.3). <sup>2</sup>Following the enactment of the “New  
7 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. )  
8 (pending before the Legislature as this bill), there shall be no  
9 monetary cap on the value of credits approved by the authority  
10 attributable to the program pursuant to “New Jersey Economic  
11 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
12 Legislature as this bill).<sup>2</sup>

13 (2) **【A business, including any affiliate of the business or any**  
14 **business that is a tenant within any qualified business facility, shall**  
15 **make or acquire capital investments totaling not less than**  
16 **\$20,000,000 in a qualified business facility, at which the business**  
17 **shall employ not fewer than 100 full-time employees to be eligible**  
18 **for a credit pursuant to P.L.2011, c.149. A business that acquires or**  
19 **leases a qualified business facility shall also be deemed to have**  
20 **acquired the capital investment made or acquired by the seller or**  
21 **landlord, as the case may be.】 (Deleted by amendment, P.L. ,**  
22 **c. ) (pending before the Legislature as this bill).**

23 (3) **【A business shall not be allowed tax credits pursuant to**  
24 **P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-**  
25 **124 et seq.) relating to the same capital and employees that qualify**  
26 **the business for tax credits pursuant to P.L.2011, c.149. A business**  
27 **that is allowed a tax credit under this section shall not be eligible**  
28 **for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1**  
29 **et al.). A business shall not qualify for a tax credit under this**  
30 **section, based upon capital investment and employment of full-time**  
31 **employees, if that capital investment or employment was the basis**  
32 **for which a grant was provided to the business pursuant to the**  
33 **"Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207**  
34 **et seq.).】 (Deleted by amendment, P.L. , c. ) (pending before**  
35 **the Legislature as this bill).**

36 (4) **【Full-time employment for an accounting or privilege period**  
37 **shall be determined as the average of the monthly full-time**  
38 **employment for the period.】 (Deleted by amendment, P.L. , c. )**  
39 **(pending before the Legislature as this bill).**

40 (5) **【The capital investment of the owner of a qualified business**  
41 **facility is that percentage of the capital investment made or**  
42 **acquired by the owner of the building that the percentage of net**  
43 **leasable area of the qualified business facility not leased to tenants**  
44 **is of the total net leasable area of the qualified business facility. For**  
45 **a business that is a tenant, the amount of capital investment in a**  
46 **facility that a leased area represents shall be equal to that**  
47 **percentage of the owner's total capital investment in the facility that**

1 the percentage of net leasable area leased by the tenant is of the  
2 total net leasable area of the qualified business facility. Capital  
3 investments made by a tenant shall be deemed to be included in the  
4 calculation of the capital investment made or acquired by the  
5 owner, but only to the extent necessary to meet the owner's  
6 minimum capital investment of \$20,000,000. Capital investments  
7 made by a tenant and not allocated to meet the owner's minimum  
8 capital investment threshold of \$20,000,000 shall be added to the  
9 amount of capital investment represented by the tenant's leased area  
10 in the qualified business facility.  ~~(Deleted by amendment, P.L. ,  
11 c. ) (pending before the Legislature as this bill).~~

12 b. (1) A business shall  ~~[apply]~~  submit an application for  ~~[the]~~  
13 tax  ~~[credit]~~  credits prior to July 1,  ~~[2014, and]~~   ~~<sup>2</sup>[2018] 2019<sup>2</sup>~~  .  
14  ~~The authority shall not approve an application for tax credits unless  
15 the application was submitted prior to July 1, <sup>2</sup>[2018] 2019<sup>2</sup> .~~

16 (2) A business shall submit its documentation indicating that it  
17 has met the capital investment and employment requirements  
18 specified in the  ~~[project]~~  incentive agreement for certification of its  
19 tax credit amount [no later than July 28, 2017.] within three years  
20 following the date of approval of its application by the authority.  
21 The authority shall have the discretion to grant two six-month  
22 extensions of this deadline. In no event shall the incentive effective  
23 date occur later than four years following the date of approval of an  
24 application by the authority.

25 (3) Full-time employment for an accounting or privilege period  
26 shall be determined as the average of the monthly full-time  
27 employment for the period.

28 (4) A business seeking a credit for a mega project shall apply for  
29 the credit within four years after the effective date of the “New  
30 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. )  
31 (pending before the Legislature as this bill).

32 c. (1)  ~~[The amount of credit allowed shall not exceed the~~  
33  ~~capital investment made by the business or the capital investment~~  
34  ~~represented by the business' leased area, as certified by the authority~~  
35  ~~pursuant to subsection b. of this section, as having met the~~  
36  ~~investment capital and employment qualifications, subject to any~~  
37  ~~reduction or disqualification as provided by subsection d. of this~~  
38  ~~section as determined by annual review by the authority.] In~~  
39  ~~conducting its annual review, the authority may require a business~~  
40  ~~to submit any information determined by the authority to be~~  
41  ~~necessary and relevant to its review.~~

42 The credit amount for any tax period  ~~[ending after July 28, 2017,~~  
43  ~~during]~~  for which the documentation of a business' credit amount  
44 remains uncertified as of a date three years after the closing date of  
45 that period shall be forfeited, although credit amounts for the  
46 remainder of the years of the  ~~[10-year credit]~~  eligibility period  
47 shall remain available to it.

1 The credit amount that may be taken for a tax period of the  
2 business that exceeds the final liabilities of the business for the tax  
3 period may be carried forward for use by the business in the next 20  
4 successive tax periods, and shall expire thereafter **】, provided that**  
5 the value of all credits approved by the authority against tax  
6 liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not  
7 exceed \$150,000,000 and the combined value of all credits  
8 approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-  
9 207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not  
10 exceed \$1,750,000,000**】**.

11 **【The amount of credit allowed for a tax period to a business that**  
12 **is a tenant in a qualified business facility shall not exceed the**  
13 **business' total lease payments for occupancy of the qualified**  
14 **business facility for the tax period.】**

15 (2) A business that is a partnership shall not be allowed a credit  
16 under this section directly, but the amount of credit of an owner of a  
17 business shall be determined by allocating to each owner of the  
18 partnership that proportion of the credit of the business that is equal  
19 to the owner of the partnership's share, whether or not distributed,  
20 of the total distributive income or gain of the partnership for its tax  
21 period ending within or with the owner's tax period, or that  
22 proportion that is allocated by an agreement, if any, among the  
23 owners of the partnership that has been provided to the Director of  
24 the Division of Taxation in the Department of the Treasury by such  
25 time and accompanied by such additional information as the  
26 director may require.

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

32 d. (1) If, in any tax period, the business reduces the total number  
33 of full-time employees in its Statewide workforce by more than 20  
34 percent from the number of full-time employees in its Statewide  
35 workforce in the last tax period prior to the credit amount approval  
36 under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business  
37 shall forfeit its credit amount for that tax period and each  
38 subsequent tax period, until the first tax period for which  
39 documentation demonstrating the restoration of the business'  
40 Statewide workforce to the threshold levels required by this  
41 paragraph has been reviewed and approved by the authority, for  
42 which tax period and each subsequent tax period the full amount of  
43 the credit shall be allowed.

44 (2) If, in any tax period, the number of full-time employees  
45 employed by the business at the qualified business facility located  
46 within a qualified incentive area drops below <sup>2</sup>**【100 or】**<sup>2</sup> 80 percent  
47 of the number of new and retained full-time jobs specified in the

1 ~~project~~ incentive agreement, then the business shall forfeit its  
2 credit amount for that tax period and each subsequent tax period,  
3 until the first tax period for which documentation demonstrating the  
4 restoration of the number of full-time employees employed by the  
5 business at the qualified business facility to ~~100~~ 80 percent of  
6 the number of jobs specified in the incentive agreement<sup>2</sup> .

7 (3) (a) If the qualified business facility is sold by the owner in  
8 whole or in part during the ~~10-year~~ eligibility period, the new  
9 owner shall not acquire the capital investment of the seller and the  
10 seller shall forfeit all credits for the tax period in which the sale  
11 occurs and all subsequent tax periods, provided however that any  
12 credits of ~~tenants~~ the business shall remain unaffected.

13 (b) ~~If a~~<sup>2</sup> ~~tenant~~<sup>2</sup> ~~business leases or subleases its~~<sup>2</sup>  
14 ~~tenancy~~<sup>2</sup> ~~premises in the qualified business facility in whole or~~  
15 ~~in part during the~~<sup>2</sup> ~~10-year~~<sup>2</sup> ~~eligibility period~~, the new tenant  
16 ~~or subtenant~~ shall not acquire the<sup>2</sup> ~~credit~~<sup>2</sup> ~~tax credits of the~~<sup>2</sup>  
17 ~~sublessor~~<sup>2</sup> ~~business~~, and the<sup>2</sup> ~~sublessor tenant~~<sup>2</sup> ~~business~~  
18 shall forfeit all credits for the tax period of its lease or sublease and  
19 all subsequent tax periods.<sup>2</sup> <sup>1</sup>Notwithstanding such forfeiture, a  
20 business that leases or subleases less than all of its premises and  
21 does not thereby reduce its new or retained full-time job count  
22 below the minimum number required under section 3 of P.L.2011,  
23 c.149 (C.34:1B-244) shall not be affected by this paragraph.<sup>1</sup> <sup>2</sup>In  
24 connection with a regional distribution facility of foodstuffs, the  
25 business entity or entities which own or lease such facility shall  
26 qualify as a business regardless of: (i) the type of the business entity  
27 or entities which own or lease such facility; (ii) the ownership or  
28 leasing of such facility by more than one business entity; or (iii) the  
29 ownership of the business entity or entities which own or lease such  
30 facility. Such ownership or leasing, whether by members,  
31 shareholders, partners, or other owners of the business entity or  
32 entities, shall be treated as ownership or leasing by affiliates. Such  
33 members, shareholders, partners, or other ownership or leasing  
34 participants and others that are tenants in the facility shall be treated  
35 as affiliates for the purpose of counting the full-time employees and  
36 capital investments in the facility. The business entity or entities  
37 may distribute credits to members, shareholders, partners, or other  
38 ownership or leasing participants in accordance with their  
39 respective interests. If the business entity or entities or their  
40 members, shareholders, partners, or other ownership or leasing  
41 participants lease space in the facility to members, shareholders,  
42 partners, or other ownership or leasing participants or others as  
43 tenants in the facility, the leases shall be treated as a lease to an  
44 affiliate, and the business entity or entities shall not be subject to  
45 forfeiture of the credits. For the purposes of this section, leasing  
46 shall include subleasing and tenants shall include subtenants.



1       (4) For a project located within a Garden State Growth Zone, if,  
2 in any tax period, the number of full-time employees employed by  
3 the business at the qualified business facility located within a  
4 qualified incentive area increases above the number of full-time  
5 employees specified in the incentive agreement, then the business  
6 shall be entitled to an increased base credit amount for that tax  
7 period and each subsequent tax period, for each additional full-time  
8 employee added above the number of full-time employees specified  
9 in the incentive agreement, until the first tax period for which  
10 documentation demonstrating a reduction of the number of full-time  
11 employees employed by the business at the qualified business  
12 facility, at which time the tax credit amount will be adjusted  
13 accordingly pursuant to this section.<sup>2</sup>

14       e. The authority shall not enter into an incentive agreement  
15 with a business that has previously received incentives pursuant to  
16 the "Business Retention and Relocation Assistance Act," P.L.1996,  
17 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive  
18 Program Act," P.L.1996, c.26 (C.34:1B-124 et seq.), or any other  
19 program administered by the authority unless:

20       (1) the business has satisfied all of its obligations underlying the  
21 previous award of incentives<sup>2</sup>or is compliant with section 4 of  
22 P.L.2011, c.149 (C.34:1B-245)<sup>2</sup>; or

23       (2) the capital investment incurred and new or retained full-time  
24 jobs pledged by the business in the new incentive agreement are  
25 separate and apart from any capital investment or jobs underlying  
26 the previous award of incentives.

27       <sup>2</sup>f. A business which has already applied for a tax credit  
28 incentive award prior to the effective date of the "New Jersey  
29 Economic Opportunity Act of 2013," P.L. \_\_\_\_\_, c. \_\_\_\_\_  
30 (pending before the Legislature as this bill), but who has not yet  
31 been approved for such tax credits, or has not executed an  
32 agreement with the authority, may proceed under that application or  
33 seek to amend such application or reapply for a tax credit incentive  
34 award for the same project or any part thereof for the purpose of  
35 availing itself of any more favorable provisions of the program.<sup>2</sup>

36 (cf: P.L.2012, c.35, s.4)

37

38       12. Section 8 of P.L.2011, c.149 (C.34:1B-249) is amended to  
39 read as follows:

40       8. a. The chief executive officer of the authority, in  
41 consultation with the Director of the Division of Taxation in the  
42 Department of the Treasury, shall adopt rules in accordance with  
43 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
44 seq.) as are necessary to implement P.L.2011, c.149 (C.34:1B-242  
45 et al.), including but not limited to: examples of and the  
46 determination of capital investment; the enumeration of qualified  
47 incentive areas; the enumeration of specific targeted industries;

1 specific delineation of **[these]** the incentive areas; the  
2 determination of the limits, if any, on the expense or type of  
3 furnishings that may constitute capital improvements; the  
4 promulgation of procedures and forms necessary to apply for a tax  
5 credit, including the enumeration of the certification procedures and  
6 allocation of tax credits for different phases of a qualified business  
7 facility; and provisions for tax credit applicants to be charged an  
8 initial application fee, and ongoing service fees, to cover the  
9 administrative costs related to the tax credit.

10 b. Through regulation, the authority shall establish standards  
11 by which qualified business facilities shall be constructed or  
12 renovated **[based on the green building manual prepared by the**  
13 **Commissioner of Community Affairs pursuant to section 1 of**  
14 **P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable**  
15 **energy, energy-efficient technology, and non-renewable resources**  
16 **in order to reduce environmental degradation and encourage long-**  
17 **term cost reduction]** in compliance with the minimum  
18 environmental and sustainability standards.

19 (cf: P.L.2011, c.149, s.8)

20

21 13. Section 1 of P.L.2009, c.136 (C.52:18-42) is amended to  
22 read as follows:

23 1. As used in **[this act]** P.L.2009, c.136 (C.52:18-42 et seq.):

24 "Business" means a corporation; sole proprietorship; partnership;  
25 corporation that has made an election under Subchapter S of  
26 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or  
27 any other business entity through which income flows as a  
28 distributive share to its owners; limited liability company; nonprofit  
29 corporation; or any other form of business organization located  
30 either within or outside this State, but excluding any public or  
31 private institution of higher education.

32 "Environmental infrastructure project" means the acquisition,  
33 construction, improvement, repair or reconstruction of all or part of  
34 any structure, facility or equipment, or real or personal property  
35 necessary for or ancillary to any (1) wastewater treatment system  
36 project, including any stormwater management or combined sewer  
37 overflow abatement projects; or (2) water supply project, as  
38 authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or  
39 P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water  
40 resources project, as authorized pursuant to P.L.2003, c.162, but  
41 excluding the acquisition, construction, repair, or reconstruction of  
42 any building or other improvements to real property, or the  
43 acquisition or installation of any equipment or other personal  
44 property, that, upon completion, shall constitute a qualified  
45 employment incentive facility.

46 "Financial assistance" means funds made available as a grant or  
47 loan, including funds derived as proceeds from the issuance of tax-

1 exempt bonds by the entity providing such assistance, but excluding  
2 proceeds from the issuance of any bonds which are issued on a  
3 conduit basis or which are not supported by a full faith and credit  
4 pledge of a public entity.

5 <sup>2</sup>“Garden State Growth Zone” or “growth zone” means the four  
6 New Jersey cities with the lowest median family income based on  
7 the 2009 American Community Survey from the US Census, (Table  
8 708. Household, Family, and Per Capita Income and Individuals,  
9 and Families Below Poverty Level by City: 2009).<sup>2</sup>

10 "Lead public agency" means the public entity designated by the  
11 State Treasurer pursuant to section 4 of **[this act]** P.L.2009, c.136  
12 (C.52:18-45) to serve as the point of contact between a business and  
13 every State governmental entity having oversight of, or involvement  
14 in, a project for which the entity or entities are providing or will  
15 provide the business with financial assistance.

16 "Public entity" means the State, other than the Judicial branch of  
17 State government, any county, municipality, district, or other  
18 political subdivision thereof, and any agency, authority, or  
19 instrumentality of the foregoing, including, but not limited to, any  
20 county improvement authority and any economic development  
21 agency, authority, or other entity.

22 "Qualified employment incentive facility" means any building or  
23 other structure or portion of a building or other structure that,  
24 following the date on which occupation of the building or structure  
25 shall have commenced, shall be used exclusively as the premises of  
26 a project, related to the creation, relocation, or retention of jobs,  
27 that qualifies for incentives under the Business Retention and  
28 Relocation Assistance Grant Program established by section 3 of  
29 P.L.1996, c.25 (C.34:1B-114), the Business Employment Incentive  
30 Program established by section 3 of P.L.1996, c.26 (C.34:1B-126),  
31 the Grow New Jersey Assistance Program established by P.L.2011,  
32 c.149 (C.34:1B-242 et seq.), the Economic Redevelopment and  
33 Growth Grant program established by sections 3 through 18 of  
34 P.L.2009, c.90 (C.52:27D-489c et al.), <sup>2</sup>sections <sup>4</sup>**[24]** <sup>22</sup><sup>4</sup> through  
35 <sup>4</sup>**[26]** <sup>24</sup><sup>4</sup> of the “New Jersey Economic Opportunity Act of 2013,”  
36 P.L. , c. (C. ) (pending before the Legislature as this bill)  
37 allowing for the establishment of a Garden State Growth Zone,<sup>2</sup> the  
38 corporation business tax credit and insurance premium tax credit  
39 certificate transfer program established pursuant to section 17 of  
40 P.L.2004, c.65 (C.34:1B-120.2), the sales and use tax exemption  
41 certificate program established pursuant to section 20 of P.L.2004,  
42 c.65 (C.34:1B-186), the exemption of retail sales of energy and  
43 utility service to qualified businesses within an urban enterprise  
44 zone from the sales and use tax pursuant to section 23 of P.L.2004,  
45 c.65 (C.52:27H-87.1), the urban transit hub tax credit program  
46 established pursuant to **[section 3 of]** P.L.2007, c.346 **[(C.34:1B-**  
47 209)] (C.34:1B-207 et seq.), or any other program as the State

1 Treasurer shall deem to be of similar kind and purpose; provided,  
2 however, that such exclusive use shall continue for the minimum  
3 period of time prescribed by the applicable law or any regulation  
4 adopted pursuant thereto, or under any project agreement or other  
5 contract executed pursuant to such law or regulation, or if no such  
6 minimum period shall be so prescribed, for a period of four years.

7 "Redevelopment project" means a specific work or improvement,  
8 including lands, buildings, structures, improvements, real and  
9 personal property or any interest therein, including lands under  
10 water, riparian rights, space rights and air rights, acquired, owned,  
11 cleared, graded, developed or redeveloped, constructed,  
12 reconstructed, rehabilitated or improved, undertaken by a  
13 developer, but excluding the acquisition, construction, repair, or  
14 reconstruction of any building or other improvements to real  
15 property, or the acquisition or installation of any equipment or other  
16 personal property, that, upon completion, shall constitute a qualified  
17 employment incentive facility.

18 "Remediation" or "remediate" means all necessary actions to  
19 investigate and clean up or respond to any known, suspected, or  
20 threatened discharge of contaminants, including, as necessary, the  
21 preliminary assessment, site investigation, remedial investigation,  
22 and remedial action, provided, however, that "remediation" or  
23 "remediate" shall not include the payment of compensation for  
24 damage to, or loss of, natural resources, and shall not include <sup>2</sup>the  
25 investigation or clean up of real property that shall be used to  
26 construct a qualified employment incentive facility, or<sup>2</sup> the  
27 acquisition, construction, repair, or reconstruction of any building  
28 or other improvements to real property, or the acquisition or  
29 installation of any equipment or other personal property, that, upon  
30 completion, shall constitute a qualified employment incentive  
31 facility.

32 "State governmental entity" means the Executive and Legislative  
33 branches of the State government, any agency or instrumentality of  
34 the State, including any board, bureau, commission, corporation,  
35 department, or division, any independent State authority, including,  
36 but not limited to, any economic development authority or agency,  
37 and any State institution of higher education. A county,  
38 municipality, or school district, or any agency or instrumentality  
39 thereof, shall not be deemed a State governmental entity.

40 (cf: P.L.2009, c.136, s.1)

41

42 14. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to  
43 read as follows:

44 3. As used in sections 3 through 18 of P.L.2009, c.90  
45 (C.52:27D-489c et al.):

46 "Applicant" means a developer proposing to enter into a  
47 redevelopment incentive grant agreement.

1 "Ancillary infrastructure project" means **[public]** structures or  
2 improvements <sup>2</sup>**[that are located]**<sup>2</sup> **[in the public right-of-way]** that  
3 are located within the incentive area but outside the project area of  
4 a redevelopment project, including, but not limited to, docks,  
5 bulkheads, parking garages, freight rail spurs, roadway overpasses,  
6 and train station platforms, provided a developer or municipal  
7 redeveloper has demonstrated that the redevelopment project would  
8 not be economically viable or promote the use of public  
9 transportation without such improvements <sup>2</sup>, as approved by the  
10 State Treasurer<sup>2</sup> .

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

14 <sup>2</sup>"Aviation district" means the area within a one-mile radius of  
15 the outermost boundary of the "Atlantic City International Airport,"  
16 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-  
17 24).<sup>2</sup>

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

23 "Developer" means any person who enters or proposes to enter  
24 into a redevelopment incentive grant agreement pursuant to the  
25 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its  
26 successors or assigns, including but not limited to a lender that  
27 completes a redevelopment project, operates a redevelopment  
28 project, or completes and operates a redevelopment project. A  
29 developer also may be a municipal government or a redevelopment  
30 agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

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

33 "Disaster recovery project" means a redevelopment project  
34 located on property that has been wholly or substantially damaged  
35 or destroyed as a result of a federally-declared disaster, and which  
36 is located within the incentive area and has been determined by the  
37 authority to be in an area appropriate for development and in need  
38 of economic development incentive assistance.

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

1       “Eligibility period” means the period of time specified in a  
2 redevelopment incentive grant agreement for the payment of  
3 reimbursements to a developer, which period shall not exceed 20  
4 years, with the term to be determined solely at the discretion of the  
5 applicant.

6       "Eligible revenue" means the property tax increment and any  
7 other incremental revenues set forth in section 11 of P.L.2009, c.90  
8 (C.52:27D-489k) <sup>2</sup>, except in the case of a Garden State Growth  
9 Zone, in which such property tax increment and any other  
10 incremental revenues are calculated as those incremental revenues  
11 that would have existed notwithstanding the provisions of the “New  
12 Jersey Economic Opportunity Act of 2013,” P.L.     , c. (C.     )  
13 (pending before the Legislature as this bill)<sup>2</sup>.

14       <sup>2</sup>“Exempt business” means a business unrelated to the  
15 developer that operates a premises at the site of the redevelopment  
16 project but whose incurred costs to construct its respective premises  
17 are excluded from the project cost. An exempt business shall not be  
18 subject to the requirements of the Economic Redevelopment and  
19 Growth Grant program.】

20       “Garden State Growth Zone” or “growth zone” means the four  
21 New Jersey cities with the lowest median family income based on  
22 the 2009 American Community Survey from the US Census, (Table  
23 708. Household, Family, and Per Capita Income and Individuals,  
24 and Families Below Poverty Level by City: 2009).

25       “Highlands development credit receiving area or redevelopment  
26 area” means an area located within an incentive area and designated  
27 by the Highlands Council for the receipt of Highlands Development  
28 Credits under the Highlands Transfer Development Rights Program  
29 authorized under section 13 of P.L.2004, c.120 (C.13:20-13).<sup>2</sup>

30       "Incentive grant" means reimbursement of all or a portion of the  
31 project financing gap of a redevelopment project through the State  
32 or a local Economic Redevelopment and Growth Grant program  
33 pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d  
34 or C.52:27D-489e).

35       "Infrastructure improvements in the public right-of-way" mean  
36 public structures or improvements located in the public right of way  
37 that are located within a project area or that constitute an ancillary  
38 infrastructure project, <sup>2</sup>either of which are dedicated to or owned by  
39 a governmental body or agency upon completion,<sup>2</sup> or any required  
40 payment in lieu of such structures, improvements or projects or any  
41 costs of remediation associated with such structures, improvements  
42 or projects, and that are determined by the authority, in consultation  
43 with applicable State agencies, to be consistent with and in  
44 furtherance of State public infrastructure objectives and initiatives.

45       “Low-income housing” means housing affordable according to  
46 federal Department of Housing and Urban Development or other  
47 recognized standards for home ownership and rental costs and

1 occupied or reserved for occupancy by households with a gross  
2 household income equal to 50 percent or less of the median gross  
3 household income for households of the same size within the  
4 housing region in which the housing is located.

5 “Major rail station” means a railroad station located within a  
6 qualified incentive area which provides access to the public to a  
7 minimum of six rail passenger service lines operated by the New  
8 Jersey Transit Corporation.

9 “Moderate-income housing” means housing affordable,  
10 according to United States Department of Housing and Urban  
11 Development or other recognized standards for home ownership  
12 and rental costs, and occupied or reserved for occupancy by  
13 households with a gross household income equal to more than 50  
14 percent but less than 80 percent of the median gross household  
15 income for households of the same size within the housing region in  
16 which the housing is located.

17 “Municipal redeveloper” means a municipal government or a  
18 redevelopment agency acting on behalf of a municipal government  
19 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3) that is an  
20 applicant for a redevelopment incentive grant agreement.

21 <sup>2</sup>“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.<sup>2</sup>

24 “Project area” means land or lands located within the incentive  
25 area under common ownership or control including through <sup>2</sup>[one  
26 or more property owners associations, a joint venture between one  
27 or more property owners,]<sup>2</sup> a redevelopment agreement with a  
28 municipality, or as otherwise established by a municipality or a  
29 redevelopment agreement executed by a State entity to implement a  
30 redevelopment project.

31 “Project cost” means the costs incurred in connection with the  
32 redevelopment project by the developer <sup>2</sup>[and such landlords,  
33 tenants, or other business occupants as may be part of the project]<sup>2</sup>  
34 until the issuance of a permanent certificate of occupancy, or until  
35 such other time specified by the authority, for a specific investment  
36 or improvement, including the costs relating to <sup>2</sup>receiving  
37 Highlands Development Credits under the Highlands Transfer  
38 Development Rights Program authorized pursuant to section 13 of  
39 P.L.2004, c.120 (C.13:20-13),<sup>2</sup> lands, buildings, improvements, real  
40 or personal property, or any interest therein, including leases  
41 discounted to present value, including lands under water, riparian  
42 rights, space rights and air rights acquired, owned, developed or  
43 redeveloped, constructed, reconstructed, rehabilitated or improved,  
44 any environmental remediation costs, plus costs not directly related  
45 to construction, of an amount not to exceed 20 percent of the total  
46 costs, capitalized interest paid to third parties, and the cost of  
47 infrastructure improvements, including ancillary infrastructure

1 projects, <sup>2</sup>and, for projects located in a Garden State Growth Zone  
2 only, the cost of infrastructure improvements including any  
3 ancillary infrastructure project and the amount by which total  
4 project cost exceeds the cost of an alternative location for the  
5 redevelopment project,<sup>2</sup> but excluding any particular costs for  
6 which the project has received federal, State, or local funding.

7 "Project financing gap" means: a. the part of the total  
8 **【redevelopment】** project cost, including return on investment, that  
9 remains to be financed after all other sources of capital have been  
10 accounted for, including, but not limited to, developer-contributed  
11 capital, <sup>2</sup>which shall not be less than 20 percent of the total project  
12 cost,<sup>2</sup> which may include the value of any existing land and  
13 improvements in the project area owned or controlled by the  
14 developer, and <sup>2</sup>【which shall not be less than 20 percent of the total  
15 project cost, excluding the cost of infrastructure improvements in  
16 the public right of way】 the cost of infrastructure improvements in  
17 the public right-of-way, subject to review by the State Treasurer,<sup>2</sup>  
18 and investor or financial entity capital or loans for which the  
19 developer, after making all good faith efforts to raise additional  
20 capital, certifies that additional capital cannot be raised from other  
21 sources on a non-recourse basis; <sup>2</sup>and<sup>2</sup> b. <sup>2</sup>【the cost of  
22 infrastructure improvements including any ancillary infrastructure  
23 project; and c.】<sup>2</sup> the amount by which total project cost exceeds the  
24 cost of an alternative location for the <sup>2</sup>out-of-State<sup>2</sup> redevelopment  
25 project.

26 "Project revenue" means all rents, fees, sales, and payments  
27 generated by a project, less taxes or other government payments.

28 "Property tax increment" means the amount obtained by:

29 (1) multiplying the general tax rate levied each year by the  
30 taxable value of all the property assessed within a project area in  
31 the same year, excluding any special assessments; and

32 (2) multiplying that product by a fraction having a numerator  
33 equal to the taxable value of all the property assessed within the  
34 project area, minus the property tax increment base, and having a  
35 denominator equal to the taxable value of all property assessed  
36 within the project area.

37 For the purpose of this definition, "property tax increment base"  
38 means the aggregate taxable value of all property assessed which is  
39 located within the redevelopment project area as of October 1st of  
40 the year preceding the year in which the redevelopment incentive  
41 grant agreement is authorized.

42 "Qualified incubator facility" means a commercial building  
43 located within an incentive area: which contains 100,000 or more  
44 square feet of office, laboratory, or industrial space; which is  
45 located near, and presents opportunities for collaboration with, a  
46 research institution, teaching hospital, college, or university; and  
47 within which, at least 75 percent of the gross leasable area is



1 restricted for use by one or more technology startup companies  
2 during the commitment period.

3 “Qualified residential project” means a redevelopment project  
4 that is predominantly residential and includes multi-family  
5 residential units <sup>1</sup>for purchase or lease <sup>2</sup>[and may also include<sup>1</sup>  
6 hotel units]<sup>2</sup>, or dormitory units for purchase or lease, <sup>1</sup>[that  
7 represents] having a total project cost of<sup>1</sup> at least \$17,500,000 <sup>1</sup>[of  
8 the total project cost]<sup>1</sup>, if the project is located in any municipality  
9 with a population greater than 200,000 according to the latest  
10 federal decennial census, or <sup>1</sup>having a total project cost of at least<sup>1</sup>  
11 \$10,000,000 <sup>1</sup>[of the total project cost,]<sup>1</sup> if the project is located in  
12 any municipality with a population less than 200,000 according to  
13 the latest federal decennial census, or is a disaster recovery project<sup>2</sup>,  
14 or having a total project cost of \$5,000,000 if the project is in a  
15 Garden State Growth Zone<sup>2</sup>.

16 “Qualifying economic redevelopment and growth grant incentive  
17 area” or “incentive area” means:

- 18 a. <sup>2</sup>an aviation district;  
19 b. a port district;  
20 c. a distressed municipality; or  
21 d. <sup>2</sup>an area (1) designated pursuant to the “State Planning Act,”

22 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

- 23 (a) Planning Area 1 (Metropolitan) <sup>3</sup>[,] <sup>3</sup>  
24 (b) Planning Area 2 (Suburban) <sup>3</sup>[,] <sup>3</sup> [or a center as designated  
25 by the State Planning Commission; an area zoned for development  
26 pursuant to] <sup>3</sup>or<sup>3</sup>

- 27 (c) Planning Area 3 (Fringe Planning Area) <sup>3</sup>[, <sup>2</sup>or<sup>2</sup>

28 (d)]<sup>3</sup> <sup>2</sup>[a designated center under the State Development and  
29 Redevelopment Plan, or

30 (e) a designated growth center in an endorsed plan until June 30,  
31 2013, or until the State Planning Commission revises and readopts  
32 New Jersey’s State Strategic Plan and adopts regulations to revise  
33 this definition as it pertains to Statewide planning areas, whichever  
34 is later;] <sup>3</sup>[Planning Area 4A (Rural Planning Area)]<sup>3,2</sup>

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

41 (3) located within any land owned by the New Jersey Sports and  
42 Exposition Authority, established pursuant to P.L.1971, c.137  
43 (C.5:10-1 et seq.), within the boundaries of the Hackensack  
44 Meadowlands District as delineated in section 4 of P.L.1968, c.404  
45 (C.13:17-4);

- 1       (4) located within a **pinelands** regional growth area, a  
2 **pinelands** town <sup>2</sup>**management area**, **a pinelands village,**  
3 <sup>2</sup>village, or a military and federal installation area **established**  
4 **pursuant to** designated in the **pinelands** comprehensive  
5 management plan prepared and adopted by the Pinelands  
6 Commission pursuant to the "Pinelands Protection Act," P.L.1979,  
7 c.111 (C.13:18A-1 et seq.); **a transit village, as determined by the**  
8 **Commissioner of Transportation; and federally owned** <sup>2</sup>**[or]**<sup>2</sup>
- 9       (5) located within <sup>2</sup>the planning area of the Highlands Region as  
10 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a  
11 highlands development credit receiving area or redevelopment area;
- 12       (6) located within a Garden State Growth Zone;
- 13       (7) located within<sup>2</sup> land approved for closure under any federal  
14 Base Closure and Realignment Commission action; <sup>2</sup>**[but excluding**  
15 **b. an area designated in the 2008 Highlands Regional Master**  
16 **Plan, adopted pursuant to the "Highlands Water Protection and**  
17 **Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless located**  
18 **within:**
- 19       (1) (a) the Existing Community Zone, or  
20       (b) a Highlands center, designated by the Highlands Water  
21 Protection and Planning Council, established pursuant to section 4  
22 of P.L.2004, c.120 (C.13:20-4); which area is not located within:
- 23       (2) (a) the Protection Zone,  
24       (b) the Conservation Zone, or  
25       (c) an Environmentally Constrained Sub-Zone **] or**
- 26       (8) located only within the following portions of the areas  
27 designated pursuant to the "State Planning Act," P.L.1985, c.398  
28 (C.52:18A-196 et al.), as <sup>3</sup>Planning Area 4A (Rural Planning  
29 Area), <sup>3</sup> Planning Area 4B (Rural/Environmentally Sensitive) or  
30 Planning Area 5 (Environmentally Sensitive) if <sup>3</sup>Planning Area 4A  
31 (Rural Planning Area), <sup>3</sup> Planning Area 4B (Rural/Environmentally  
32 Sensitive) or Planning Area 5 (Environmentally Sensitive) is  
33 located within:
- 34       (a) a designated center under the State Development and  
35 Redevelopment Plan;
- 36       (b) a designated growth center in an endorsed plan until the State  
37 Planning Commission revises and readopts New Jersey's State  
38 Strategic Plan and adopts regulations to revise this definition as it  
39 pertains to Statewide planning areas;
- 40       (c) any area determined to be in need of redevelopment pursuant  
41 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-  
42 6) or in need of rehabilitation pursuant to section 14 of P.L.1992,  
43 c.79 (C.40A:12A-14);
- 44       (d) any area on which a structure exists or previously existed  
45 including any desired expansion of the footprint of the existing or  
46 previously existing structure provided such expansion otherwise

1 complies with all applicable federal, State, county, and local  
2 permits and approvals;

3 (e) <sup>3</sup>**any** <sup>3</sup>the<sup>3</sup> planning area of the Highlands Region as defined  
4 in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
5 development credit receiving area or redevelopment area; or

6 (f) any area on which an existing tourism destination project is  
7 located.

8 "Qualifying economic redevelopment and growth grant incentive  
9 area" or "incentive area" shall not include any property located  
10 within the preservation area of the Highlands Region as defined in  
11 the "Highlands Water Protection and Planning Act," P.L.2004,  
12 c.120 (C.13:20-1 et al.)<sup>2</sup> .

13 "Redevelopment incentive grant agreement" means an agreement  
14 between, (1) the State and the New Jersey Economic Development  
15 Authority and a developer, or (2) a municipality and a developer, or  
16 a municipal ordinance authorizing a project to be undertaken by a  
17 municipal redeveloper, under which, in exchange for the proceeds  
18 of an incentive grant, the developer agrees to perform any work or  
19 undertaking necessary for a redevelopment project, including the  
20 clearance, development or redevelopment, construction, or  
21 rehabilitation of any structure or improvement of commercial,  
22 industrial, residential, or public structures or improvements within a  
23 qualifying economic redevelopment and growth grant incentive area  
24 or a transit village.

25 "Redevelopment project" means a specific **work**  
26 <sup>2</sup>**investment** construction project<sup>2</sup> or improvement, including  
27 lands, buildings, improvements, real and personal property or any  
28 interest therein, including lands under water, riparian rights, space  
29 rights and air rights, acquired, owned, leased, developed or  
30 redeveloped, constructed, reconstructed, rehabilitated or improved,  
31 undertaken by a developer, owner or tenant, or both, within a  
32 project area and any ancillary infrastructure project **associated**  
33 therewith including infrastructure improvements in the public right  
34 of way, as set forth in an application to be made to the authority.  
35 The use of the term "redevelopment project" in sections 3 through  
36 18 of P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to  
37 only redevelopment projects located in areas determined to be in  
38 need of redevelopment pursuant to sections 5 and 6 of P.L.1992,  
39 c.79 (C.40A:12A-5 and 40A:12A-6) but shall also include any work  
40 or undertaking in accordance with the "Redevelopment Area Bond  
41 Financing Law," sections 1 through 10 of P.L.2001, c.310  
42 (C.40A:12A-64 et seq.) or other applicable law, pursuant to a  
43 redevelopment plan adopted by a State entity, or as described in the  
44 resolution adopted by a public entity created by State law with the  
45 power to adopt a redevelopment plan or otherwise determine the  
46 location, type and character of a redevelopment project or part of a  
47 redevelopment project on land owned or controlled by it or within

1 its jurisdiction, including but not limited to, the New Jersey  
2 Meadowlands Commission established pursuant to P.L.1968, c.404  
3 (C.13:17-1 et seq.), the New Jersey Sports and Exposition Authority  
4 established pursuant to P.L.1971 c.137 (C.5:10-1 et seq.) and the  
5 Fort Monmouth Economic Revitalization Authority created  
6 pursuant to P.L.2010, c.51 (C.52:27I-18 et seq.).

7 "Redevelopment utility" means a self-liquidating fund created by  
8 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-  
9 489l) to account for revenues collected and incentive grants paid  
10 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other  
11 revenues dedicated to a redevelopment project.

12 "Revenue increment base" means the amounts of all eligible  
13 revenues from sources within the redevelopment project area in the  
14 calendar year preceding the year in which the redevelopment  
15 incentive grant agreement is executed, as certified by the State  
16 Treasurer for State revenues, and the chief financial officer of the  
17 municipality for municipal revenues.

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

20 "SDA municipality" means a municipality in which an SDA  
21 district is situate.

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

27 "Tourism destination project" means a redevelopment project  
28 that will be among the most visited privately owned or operated  
29 tourism or recreation sites in the State <sup>1</sup> [as determined at the  
30 discretion of the authority] , and which is located within the  
31 incentive area and has been determined by the authority to be in an  
32 area appropriate for development and in need of economic  
33 development incentive assistance<sup>1</sup> .

34 "Transit project" means a redevelopment project located within a  
35 1/2-mile radius<sup>2</sup>, or one-mile radius for projects located in a Garden  
36 State Growth Zone,<sup>2</sup> surrounding the mid-point of a New Jersey  
37 Transit Corporation, Port Authority Transit Corporation, or Port  
38 Authority Trans-Hudson Corporation rail, bus, or ferry station  
39 platform area, including all light rail stations.

40 "Transit village" means a community with a bus, train, light rail,  
41 or ferry station that has developed a plan to achieve its economic  
42 development and revitalization goals and has been designated by  
43 the New Jersey Department of Transportation as a transit village.

44 "Urban transit hub" means an urban transit hub, as defined in  
45 section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within  
46 an eligible municipality, as defined in section 10 of P.L.2007, c.346  
47 (C.34:1B-208)<sup>2</sup>, or all light rail stations and property located within

1 a one-mile radius of the mid-point of the platform area of such a  
2 rail, bus, or ferry station if the property is in a qualified  
3 municipality under the "Municipal Rehabilitation and Economic  
4 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.)<sup>2</sup> .

5 "Vacant commercial building" means any commercial building  
6 or complex of commercial buildings having over 400,000 square  
7 feet of office, laboratory, or industrial space that is more than 70  
8 percent unoccupied at the time of application to the authority or is  
9 negatively impacted by the approval of a "qualified business  
10 facility," as defined pursuant to section 2 of P.L.2007, c.346  
11 (C.34:1B-208) <sup>2</sup>, or any vacant commercial building in a Garden  
12 State Growth Zone having over 35,000 square feet of office,  
13 laboratory, or industrial space, or over 200,000 square feet of  
14 office, laboratory, or industrial space in Atlantic, Burlington,  
15 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem  
16 counties available for occupancy for a period of over one year<sup>2</sup> .

17 "Vacant health facility project" means a redevelopment project  
18 where a health facility, as defined by section 2 of P.L.1971, c.136  
19 (C.26:2H-2), currently exists and is considered vacant. A health  
20 facility shall be considered vacant if at least 70 percent of that  
21 facility has not been open to the public or utilized to serve any  
22 patients at the time of application to the authority.

23 (cf: P.L.2011, c.89, s.6)

24

25 <sup>1</sup>15. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to  
26 read as follows:

27 4. a. The governing body of a municipality wherein is located a  
28 qualifying economic redevelopment and growth grant incentive area  
29 may adopt an ordinance to establish a local Economic  
30 Redevelopment and Growth Grant program for the purpose of  
31 encouraging redevelopment projects in that area through the  
32 provision of incentive grants to reimburse developers for all or a  
33 portion of the project financing gap for such projects. No local  
34 Economic Redevelopment and Growth Grant program shall take  
35 effect until the Local Finance Board approves the ordinance.

36 b. A developer shall submit an application for a local incentive  
37 grant prior to July 1, <sup>2</sup>~~2018~~ 2019<sup>2</sup>. A developer that submits an  
38 application for a local incentive grant shall indicate on the  
39 application whether it is also applying for a State incentive grant.  
40 An application by a developer applying for a local incentive grant  
41 only shall not require approval by the authority. A municipal  
42 redeveloper may only apply for local incentive grants for the  
43 construction of: (1) infrastructure improvements in the public right-  
44 of-way, or (2) publicly owned facilities.

45 c. No local incentive grant shall be finally approved by a  
46 municipality until approved by the Local Finance Board. The Local

1 Finance Board shall not approve a local incentive grant unless the  
2 application was submitted prior to July 1, <sup>2</sup>~~2018~~ 2019<sup>2</sup>.

3 d. In deciding whether or not to approve a local incentive grant  
4 agreement the Local Finance Board shall consider the following  
5 factors:

6 (1) the economic feasibility of the redevelopment project;

7 (2) the extent of economic and related social distress in the  
8 municipality and the area to be affected by the redevelopment  
9 project;

10 (3) the degree to which the redevelopment project will advance  
11 State, regional, and local development and planning strategies;

12 (4) the likelihood that the redevelopment project shall, upon  
13 completion, be capable of generating new tax revenue in an amount  
14 in excess of the amount necessary to reimburse the developer for  
15 project costs incurred as provided in the redevelopment incentive  
16 grant agreement;

17 (5) the relationship of the redevelopment project to a  
18 comprehensive local development strategy, including other major  
19 projects undertaken within the municipality;

20 (6) the need for the redevelopment incentive grant agreement to  
21 the viability of the redevelopment project;

22 (7) compliance with the provisions of P.L.2009, c.90  
23 (C.52:27D-489a et al.); and

24 (8) the degree to which the redevelopment project enhances and  
25 promotes job creation and economic development.<sup>1</sup>

26 (cf: P.L.2010, c.10, s.3)

27

28 <sup>1</sup>~~15.~~ 16.<sup>1</sup> Section 5 of P.L.2009, c.90 (C.52:27D-489e) is  
29 amended to read as follows:

30 5. a. The New Jersey Economic Development Authority, in  
31 consultation with the State Treasurer, shall establish an Economic  
32 Redevelopment and Growth Grant program for the purpose of  
33 encouraging redevelopment projects in qualifying economic  
34 redevelopment and growth grant incentive areas that do not qualify  
35 as such areas solely by virtue of being a transit village, through the  
36 provision of incentive grants to reimburse developers for certain  
37 project financing gap costs.

38 b. (1) A developer shall submit an application for a State  
39 incentive grant prior to July 1, <sup>2</sup>~~2018~~ 2019<sup>2</sup>. A developer that  
40 submits an application for a State incentive grant shall indicate on  
41 the application whether it is also applying for a local incentive  
42 grant.

43 (2) When an applicant indicates it is also applying for a local  
44 incentive grant, the authority shall forward a copy of the application  
45 to the municipality wherein the redevelopment project is to be  
46 located for approval by municipal ordinance.

1 c. An application for a State incentive grant shall be reviewed  
2 and approved by the authority. The authority shall not approve an  
3 application for a State incentive grant unless the application was  
4 submitted prior to July 1, <sup>2</sup>[2018] 2019<sup>2</sup>.<sup>1</sup>  
5 (cf: P.L.2010, c.10, s.5)  
6

7 <sup>1</sup>[16.] 17.<sup>1</sup> Section 6 of P.L.2009, c.90 (C.52:27D-489f) is  
8 amended to read as follows:

9 6. a. Up to the limits established in subsection b. of this section  
10 and in accordance with a redevelopment incentive grant agreement,  
11 beginning upon the receipt of occupancy permits for any portion of  
12 the redevelopment project, or upon such other event evidencing  
13 project completion as set forth in the incentive grant agreement, the  
14 State Treasurer shall pay to the developer incremental State  
15 revenues directly realized from businesses operating on or at the  
16 site of the redevelopment project [premises] <sup>2</sup>[, including exempt  
17 businesses.]<sup>2</sup> from the following taxes: the Corporation Business  
18 Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax  
19 imposed on marine insurance companies pursuant to R.S.54:16-1 et  
20 seq., the tax imposed on insurers generally, pursuant to P.L.1945,  
21 c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public  
22 utilities gross receipts tax and public utility excise tax imposed on  
23 sewerage and water corporations pursuant to P.L.1940, c.5  
24 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric,  
25 natural gas, telecommunications, water and sewage utilities, and  
26 cable television companies under the jurisdiction of the New Jersey  
27 Board of Utilities, or comparable entity, <sup>2</sup>except for those tariffs,  
28 fees, or taxes<sup>2</sup> related to societal benefits charges assessed pursuant  
29 to section 12 of P.L.1999, c.23 (C.48:3-60), any charges paid for  
30 compliance with the "Global Warming Response Act," P.L.2007,  
31 c.112 (C.26:2C-37 et seq.), transitional energy facility assessment  
32 unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-  
33 21.34), and the sales and use taxes on public utility and cable  
34 television services and commodities, the tax derived from net  
35 profits from business, a distributive share of partnership income, or  
36 a pro rata share of S corporation income under the "New Jersey  
37 Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from  
38 a business at the site of a redevelopment project that is required to  
39 collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966,  
40 c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966,  
41 c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures  
42 and equipment, or materials [used] for the remediation, the  
43 construction of new structures [, or the construction of new  
44 residences] <sup>2</sup>[or residences, or the renovation of same.]<sup>2</sup> at the site  
45 of a redevelopment project, <sup>2</sup>[the tax imposed pursuant to P.L.1966,  
46 c.30 (C.54:32B-1 et seq.) from purchases of goods and services  
47 used in the ongoing operation of a business at the site of the

1 redevelopment project,]<sup>2</sup> the hotel and motel occupancy fee  
2 imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or  
3 the portion of the fee imposed pursuant to section 3 of P.L.1968,  
4 c.49 (C.46:15-7) derived from the sale of real property at the site of  
5 the redevelopment project and paid to the State Treasurer for use by  
6 the State, that is not credited to the "Shore Protection Fund" or the  
7 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New  
8 Jersey Affordable Housing Trust Fund") pursuant to section 4 of  
9 P.L.1968, c.49 (C.46:15-8). <sup>2</sup>Any developer shall be allowed to  
10 assign their ability to apply for the tax credit under this subsection  
11 to a non-profit organization with a mission dedicated to attracting  
12 investment and completing development and redevelopment  
13 projects in a Garden State Growth Zone. The non-profit  
14 organization may make an application on behalf of a developer  
15 which meets the requirements for the tax credit, or a group of non-  
16 qualifying developers, such that these will be considered a unified  
17 project for the purposes of the incentives provided under this  
18 section.<sup>2</sup>

19 b. (1) Up to an average of 75 percent of the projected annual  
20 incremental revenues <sup>2</sup>[, averaged over the length of time during  
21 which the reimbursement shall be granted,] or 85 percent of the  
22 projected annual incremental revenues in a Garden State Growth  
23 Zone<sup>2</sup> may be pledged towards the State portion of an incentive  
24 grant.

25 (2) In the case of a qualified residential project, if the authority  
26 determines that the estimated amount of incremental revenues  
27 pledged towards the State portion of an incentive grant is  
28 inadequate to fully fund the amount of the State portion of the  
29 incentive grant, then in lieu of an incentive grant based on such  
30 incremental revenue, the developer shall be awarded tax credits  
31 equal to the full amount of the incentive grant. The value of all  
32 credits approved by the authority pursuant to this paragraph shall  
33 not exceed \$600,000,000, of which <sup>2</sup>:

34 (a) \$250,000,000 shall be restricted to qualified residential  
35 projects within Atlantic, Burlington, Camden, Cape May,  
36 Cumberland, Gloucester, Ocean, and Salem counties, of which  
37 \$175,000,000 of credits shall be restricted to qualified residential  
38 projects in a Garden State Growth Zone located within the  
39 aforementioned counties, and \$75,000,000 of credits shall be  
40 restricted to qualified residential projects in municipalities with a  
41 2007 Municipal Revitalization Index of 400 or higher as of the date  
42 of enactment of the "New Jersey Economic Opportunity Act of  
43 2013," P.L. , c. (C. ) (pending before the Legislature as this  
44 bill) and located within the aforementioned counties;

45 (b)<sup>2</sup> \$250,000,000 shall be restricted to qualified residential  
46 projects located in <sup>2</sup>: (i)<sup>2</sup> urban transit hubs that are commuter rail  
47 in nature <sup>2</sup>that otherwise do not qualify under subparagraph (a) of



1 this paragraph<sup>2</sup> ; <sup>2</sup>[\$200,000,000] (ii) a Garden State Growth Zone  
2 not located in a county mentioned in subparagraph (a) of this  
3 paragraph, <sup>3</sup>[or]<sup>3</sup> (iii) disaster recovery projects that otherwise do  
4 not qualify under subparagraph (a) of this paragraph <sup>3</sup>, or (iv) SDA  
5 municipalities located in Hudson County that were awarded State  
6 Aid in State Fiscal Year 2013 through the Transitional Aid to  
7 Localities program and otherwise do not qualify under  
8 subparagraph (a) of this paragraph<sup>3</sup>;

9 (c) \$75,000,000<sup>2</sup> shall be restricted to qualified residential  
10 projects in distressed municipalities <sup>2</sup>[or],<sup>2</sup> deep poverty pockets <sup>2</sup>,  
11 highlands development credit receiving areas or redevelopment  
12 areas, otherwise not qualifying pursuant to subparagraphs (a) or (b)  
13 of this paragraph<sup>2</sup> ; <sup>2</sup>[\$100,000,000] and

14 (d) \$25,000,000<sup>2</sup> shall be restricted to qualified residential  
15 projects that are <sup>2</sup>[disaster recovery projects; and the remaining  
16 \$50,000,000 shall be used for qualified residential projects in any  
17 municipality falling] located<sup>2</sup> within a qualifying economic  
18 redevelopment and growth grant incentive area <sup>2</sup>otherwise not  
19 qualifying under subparagraphs (a), (b), or (c) of this paragraph<sup>2</sup> .

20 <sup>2</sup>[Not] (e) For subparagraphs (a) through (d) of this paragraph,  
21 not<sup>2</sup> more than \$40,000,000 of credits shall be awarded to any  
22 qualified residential project in a deep poverty pocket or distressed  
23 municipality and not more than \$20,000,000 of credits shall be  
24 awarded to any other qualified residential project. The developer of  
25 a qualified residential project seeking an award of credits towards  
26 the funding of its incentive grant shall submit an incentive grant  
27 application prior to July 1, 2015 and if approved shall submit a  
28 temporary certificate of occupancy for such project no later than  
29 July 28, 2015. <sup>2</sup>Applications for tax credits pursuant to this  
30 subsection relating to an ancillary infrastructure project or  
31 infrastructure improvement in the public right of way, or both, shall  
32 be accompanied with a letter of support relating to the project or  
33 improvement by the governing body or agency in which the project  
34 is located.<sup>2</sup> Credits awarded to a developer pursuant to this  
35 subsection shall be subject to the same financial and related analysis  
36 by the authority and shall be utilized or transferred by the developer  
37 as if such credits had been awarded to the developer pursuant to  
38 section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified  
39 residential projects thereunder. No portion of the revenues pledged  
40 pursuant to the “New Jersey Economic Opportunity Act of 2013,”  
41 P.L. , c. (C. ) (pending before the Legislature as this bill) shall  
42 be subject to withholding or retainage for adjustment, in the event  
43 the developer or taxpayer waives its rights to claim a refund thereof.

44 <sup>2</sup>(3) A developer may apply to the Director of the Division of  
45 Taxation in the Department of the Treasury and the chief executive  
46 officer of the authority for a tax credit transfer certificate, if the

1 developer is awarded a tax credit pursuant to paragraph (2) of this  
2 subsection, covering one or more years, in lieu of the developer  
3 being allowed any amount of the credit against the tax liability of  
4 the developer. The tax credit transfer certificate, upon receipt  
5 thereof by the developer from the director and the chief executive  
6 officer of the authority, may be sold or assigned, in full or in part,  
7 to any other person that may have a tax liability pursuant to section  
8 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,  
9 c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231  
10 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the  
11 developer shall include a statement waiving the developer's right to  
12 claim that amount of the credit against the taxes that the developer  
13 has elected to sell or assign. The sale or assignment of any amount  
14 of a tax credit transfer certificate allowed under this paragraph shall  
15 not be exchanged for consideration received by the developer of  
16 less than 75 percent of the transferred credit amount. Any amount  
17 of a tax credit transfer certificate used by a purchaser or assignee  
18 against a tax liability shall be subject to the same limitations and  
19 conditions that apply to the use of the credit by the developer who  
20 originally applied for and was allowed the credit.<sup>2</sup>

21 c. All administrative costs associated with the incentive grant  
22 shall be assessed to the applicant and be retained by the State  
23 Treasurer from the annual incentive grant payments.

24 d. The incremental revenue for the revenues listed in  
25 subsection a. of this section shall be calculated as the difference  
26 between the amount collected in any fiscal year from any eligible  
27 revenue source included in the State redevelopment incentive grant  
28 agreement, less the revenue increment base for that eligible  
29 revenue.

30 e. The municipality is authorized to collect any and all  
31 information necessary to facilitate grants under this program and  
32 remit that information, as may be required from time to time, in  
33 order to assist in the calculation of incremental revenue.

34 (cf: P.L.2010, c.10, s.6)

35

36 <sup>1</sup>**[17.] 18.**<sup>1</sup> Section 8 of P.L.2009, c.90 (C.52:27D-489h) is  
37 amended to read as follows:

38 8. a. (1) The **[New Jersey Economic Development Authority]**  
39 authority, in consultation with the State Treasurer, shall promulgate  
40 an incentive grant application form and procedure for the Economic  
41 Redevelopment and Growth Grant program.

42 (2) (a) The Local Finance Board, in consultation with the **[New**  
43 **Jersey Economic Development Authority]** authority, shall develop  
44 a minimum standard incentive grant application form for municipal  
45 Economic Redevelopment and Growth Grant programs.

46 (b) Through regulation, the **[Economic Development Authority]**  
47 authority shall establish standards for redevelopment projects

1 seeking State or local incentive grants based on the green building  
2 manual prepared by the Commissioner of Community Affairs  
3 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),  
4 regarding the use of renewable energy, energy-efficient technology,  
5 and non-renewable resources in order to reduce environmental  
6 degradation and encourage long-term cost reduction.

7 <sup>4</sup>[(c) Through regulation, the authority shall require that each  
8 worker employed in the performance of any construction contract  
9 for work at a redevelopment project shall be paid not less than the  
10 prevailing wage rate, consistent with the requirements of section 1  
11 of P.L.1979, c.303 (C.34:1B-5.1) <sup>2</sup>, provided that for a State  
12 incentive grant solely for infrastructure improvements in the public  
13 right of way or any ancillary infrastructure project, regardless of  
14 whether the work or improvements are part of a larger  
15 redevelopment project, the requirements of this subparagraph shall  
16 only apply to the work relating to the infrastructure improvements  
17 in the public right of way or the ancillary infrastructure project for  
18 which the incentive grant is issued<sup>2</sup>.

19 (d) Through regulation, the authority shall require that each  
20 worker employed in building maintenance services of a  
21 redevelopment project by a developer or a tenant or subcontractor  
22 of a developer shall be paid 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.) and P.L.2005, c.379 (C.34:11-56.58 et  
26 seq.).<sup>4</sup>

27 b. Within each incentive grant application, a developer shall  
28 certify information concerning:

29 (1) the status of control of the entire redevelopment project site;

30 (2) all required State and federal government permits that have  
31 been issued for the redevelopment project, or will be issued pending  
32 resolution of financing issues;

33 (3) local planning and zoning board approvals, as required, for  
34 the redevelopment project;

35 (4) estimates of the revenue increment base, the eligible revenues  
36 for the project, and the assumptions upon which those estimates are  
37 made.

38 c. (1) With regard to State tax revenues proposed to be pledged  
39 for an incentive grant the authority and the State Treasurer shall  
40 review the **redevelopment** project costs <sup>2</sup>[and, except with  
41 respect to an application by a municipal redeveloper or with respect  
42 to a qualified residential project]<sup>2</sup>, evaluate and validate the project  
43 financing gap estimated by the developer, and conduct a State fiscal  
44 impact analysis to ensure that the overall public assistance provided  
45 to the project <sup>2</sup>, except with regards to a qualified residential  
46 project,<sup>2</sup> will result in net benefits to the State including, without  
47 limitation, both direct and indirect economic benefits and non-

1 financial community revitalization objectives, including but not  
2 limited to, the promotion of the use of public transportation in the  
3 case of the ancillary infrastructure project portion of any transit  
4 project.

5 (2) With regard to local incremental revenues proposed to be  
6 pledged for an incentive grant the authority and the Local Finance  
7 Board shall review the **【redevelopment】** project costs, and except  
8 with respect to an application by a municipal redeveloper <sup>2</sup>**【or with**  
9 **respect to a qualified residential project】<sup>2</sup>**, evaluate and validate  
10 the project financing gap projected by the developer, and conduct a  
11 local fiscal impact analysis to ensure that the overall public  
12 assistance provided to the project <sup>2</sup>, except with regards to a  
13 qualified residential project,<sup>2</sup> will result in net benefits to the  
14 municipality wherein the redevelopment project is located  
15 including, without limitation, both direct and indirect economic  
16 benefits and non-financial community revitalization objectives,  
17 including but not limited to, the promotion of the use of public  
18 transportation in the case of the ancillary infrastructure project  
19 portion of any transit project.

20 (3) The authority, State Treasurer, and Local Finance Board may  
21 act cooperatively to administer and review applications, and shall  
22 consult with the Office of State Planning on matters concerning  
23 State, regional, and local development and planning strategies.

24 (4) The costs of the aforementioned reviews shall be assessed to  
25 the applicant as an application fee.

26 (5) A developer who has already applied for an incentive grant  
27 award prior to the effective date of the “New Jersey Economic  
28 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before  
29 the Legislature as this bill) <sup>2</sup>**【may not】**, but who has not yet been  
30 approved for such grant, or has not executed an agreement with the  
31 authority, may proceed under that application or<sup>2</sup> seek to amend  
32 such application or reapply for an incentive grant award for the  
33 same project or any part thereof for the purpose of availing itself of  
34 any more favorable provisions of the Economic Redevelopment and  
35 Growth Grant program established pursuant to the “New Jersey  
36 Economic Opportunity Act of 2013,” P.L. , c. (C. ) (pending  
37 before the Legislature as this bill) <sup>2</sup>, except that projects with costs  
38 exceeding \$200,000,000 shall not be eligible for revised percentage  
39 caps under subsection d. of section 19 of P.L. , c. (C. )  
40 (pending before the Legislature as this bill)<sup>2</sup>.

41 (cf: P.L.2010, c.10, s.8)

42  
43 <sup>1</sup>**【18.】** 19.<sup>1</sup> Section 9 of P.L.2009, c.90 (C.52:27D-489i) is  
44 amended to read as follows:

45 9. a. The authority is authorized to enter into a redevelopment  
46 incentive grant agreement with a developer for any redevelopment  
47 project located within a qualifying economic redevelopment and

1 growth grant incentive area that does not qualify as such area solely  
2 by virtue of being a transit village.

3 b. The decision whether or not to enter into a redevelopment  
4 incentive grant agreement is solely within the discretion of the  
5 authority and the State Treasurer, provided that they both agree to  
6 enter into an agreement.

7 c. The Chief Executive Officer of the **【New Jersey Economic**  
8 **Development Authority】** authority, in consultation with the State  
9 Treasurer shall negotiate the terms and conditions of any  
10 redevelopment incentive grant agreement on behalf of the State.

11 d. (1) The redevelopment incentive grant agreement shall  
12 specify the maximum amount of project costs, the amount of the  
13 incentive grant to be awarded the developer, the frequency of  
14 payments, and the **【length of time, which shall not exceed 20 years,**  
15 during which that reimbursement shall be granted】 eligibility  
16 period<sup>2</sup>, which shall not exceed 20 years, during which  
17 reimbursement will be granted, and for a project receiving an  
18 incentive grant in excess of \$50 million, the amount of the  
19 negotiated repayment amount to the State, which may include, but  
20 not be limited to, cash, equity, and warrants<sup>2</sup>. Except for  
21 redevelopment incentive grant agreements with a municipal  
22 redeveloper or with the developer of a redevelopment project solely  
23 with respect to the cost of infrastructure improvements in the public  
24 right-of-way including any ancillary infrastructure project in the  
25 public right-of-way, in no event shall the base amount of the  
26 combined **【amount of the】** reimbursements under redevelopment  
27 incentive grant agreements with the State or municipality exceed 20  
28 percent of the total project cost **【of the project】** <sup>2</sup>, except in a  
29 Garden State Growth Zone, which shall not exceed 30 percent<sup>2</sup> .  
30 **【For the purposes of calculating the total cost of all projects, the**  
31 **cost of infrastructure improvements in the public right-of-way and**  
32 **publicly owned facilities shall not be included. The amount of the**  
33 **redevelopment incentive grant for a municipal redeveloper may**  
34 **include the total cost of such infrastructure improvements and**  
35 **publicly owned facilities.】**

36 (2) The authority shall be permitted to increase the amount of the  
37 reimbursement under the redevelopment incentive grant agreement  
38 with the State by up to <sup>2</sup>**【five】** 10<sup>2</sup> percent of the total project cost  
39 if the project is:

40 (a) located in a distressed municipality which lacks adequate  
41 access to nutritious food in the judgment of the Chief Executive  
42 Officer of the authority and will include either a supermarket or  
43 grocery store with a minimum of 15,000 square feet of selling space  
44 devoted to the sale of consumable products or a prepared food  
45 establishment selling only nutritious ready to serve meals;

46 (b) located in a distressed municipality which lacks adequate  
47 access to health care and health services in the judgment of the

- 1 Chief Executive Officer of the authority and will include a health  
2 care and health services center with a minimum of 10,000 square  
3 feet of space devoted to the provision of health care and health  
4 services;
- 5 (c) located in a distressed municipality which has a business  
6 located therein that is required to respond to a request for proposal  
7 to fulfill a contract with the federal government as set forth in  
8 subsection d. of section 3 of P.L.2011, c.149 (C.34:1B-244);
- 9 (d) a transit project; <sup>2</sup>[or]<sup>2</sup>
- 10 (e) a qualified residential project in which at least 10 percent of  
11 the residential units are constructed as and reserved for moderate  
12 income housing <sup>2</sup>;
- 13 (f) located in a highlands development credit receiving area or  
14 redevelopment area;
- 15 (g) located in a Garden State Growth Zone;
- 16 (h) a disaster recovery project;
- 17 (i) an aviation project;
- 18 (j) a tourism destination project; or
- 19 (k) substantial rehabilitation or renovation of an existing  
20 structure or structures<sup>2</sup> .
- 21 (3) <sup>2</sup>[If there remains a project financing gap after the maximum  
22 combined amounts provided in paragraph (2) of this subsection are  
23 considered, then the authority shall be permitted to make a bonus  
24 award increasing the amount of the reimbursement under the  
25 redevelopment incentive grant agreement with the State by up to 10  
26 percent of the total project cost. In making a bonus award to a  
27 developer, the authority shall consider any factors that are found to  
28 contribute to the remaining project financing gap, such as whether  
29 the project:
- 30 (a) is located in a distressed municipality and there exists a  
31 financial gap between the fair market commercial rental rates in the  
32 relevant marketplace and the commercial rental rates that are  
33 necessary to make the redevelopment project economically feasible;
- 34 (b) is located on an environmentally contaminated site requiring  
35 remediation;
- 36 (c) is a qualified residential project in which at least ten percent  
37 of the residential units are constructed as and reserved for low  
38 income housing;
- 39 (d) would include energy efficiency or renewable energy  
40 features, measures or upgrades in excess of the green building  
41 requirements of the Economic Redevelopment and Growth Grant  
42 program which requirements shall be as set forth in the New Jersey  
43 Green Building Manual prepared by the Department of Community  
44 Affairs;
- 45 (e) is a qualified incubator facility; or
- 46 (f) is a disaster recovery project having unique added costs of  
47 construction associated therewith.

1       (4)]<sup>2</sup> The maximum amount of any redevelopment incentive  
2 grant shall be equal to <sup>2</sup>[the sum of 75 percent of the environmental  
3 remediation costs, 100 percent of the costs of infrastructure  
4 improvements in the public right-of-way including any ancillary  
5 infrastructure project in the public right-of-way, and 35 percent of  
6 the amount determined by subtracting the costs of infrastructure  
7 improvements in the public right-of-way, including any ancillary  
8 infrastructure project in the public right-of way, from the total  
9 project costs] up to 30 percent of the total project costs, except for  
10 projects located in a Garden State Growth Zone, in which case the  
11 maximum amount of any redevelopment incentive grant shall be  
12 equal to up to 40 percent of the total project costs<sup>2</sup> . <sup>1</sup>[The  
13 maximum amount of eligible reimbursements, including any  
14 increase or bonus award, shall not exceed 35 percent of the total  
15 project cost.]<sup>1</sup>

16       e. [The] Except in the case of a qualified residential project,  
17 the authority and the State Treasurer may enter into a  
18 redevelopment incentive grant agreement only if they make a  
19 finding that the State revenues to be realized from the  
20 redevelopment project will be in excess of the amount necessary to  
21 reimburse the developer for its project financing gap. This finding  
22 may be made by an estimation based upon the professional  
23 judgment of the Chief Executive Officer of the [New Jersey  
24 Economic Development Authority] authority and the State  
25 Treasurer.

26       f. In deciding whether or not to recommend entering into a  
27 redevelopment incentive grant agreement and in negotiating a  
28 redevelopment agreement with a developer, the Chief Executive  
29 Officer of the [New Jersey Economic Development Authority]  
30 authority shall consider the following factors:

31       (1) the economic feasibility of the redevelopment project;

32       (2) the extent of economic and related social distress in the  
33 municipality and the area to be affected by the redevelopment  
34 project or the level of site specific distress to include dilapidated  
35 conditions, brownfields designation, environmental contamination,  
36 pattern of vacancy, abandonment, or under utilization of the  
37 property, rate of foreclosures, or other site conditions as determined  
38 by the authority;

39       (3) the degree to which the redevelopment project will advance  
40 State, regional, and local development and planning strategies;

41       (4) the likelihood that the redevelopment project shall, upon  
42 completion, be capable of generating new tax revenue in an amount  
43 in excess of the amount necessary to reimburse the developer for  
44 project costs incurred as provided in the redevelopment incentive  
45 grant agreement, provided, however, that any tax revenue generated  
46 by a redevelopment project that is a disaster recovery project shall

1 be considered new tax revenue even if the same or more tax revenue  
2 was generated at or on the site prior to the disaster;

3 (5) the relationship of the redevelopment project to a  
4 comprehensive local development strategy, including other major  
5 projects undertaken within the municipality;

6 (6) the need of the redevelopment incentive grant agreement to  
7 the viability of the redevelopment project or the promotion of the  
8 use of public transportation; and

9 (7) the degree to which the redevelopment project enhances and  
10 promotes job creation and economic development or the promotion  
11 of the use of public transportation.

12 g. (1) A developer that has entered into a redevelopment  
13 incentive grant agreement with the authority and the State Treasurer  
14 pursuant to this section may, upon notice to and consent of the  
15 authority and the State Treasurer, pledge **[and]**, assign **[as security**  
16 **or support for any loan or bond]**, transfer, or sell any or all of its  
17 right, title and interest in and to such agreements and in the  
18 incentive grants payable thereunder, and the right to receive same,  
19 along with the rights and remedies provided to the developer under  
20 such agreement. Any such assignment shall be an absolute  
21 assignment for all purposes, including the federal bankruptcy code.

22 (2) Any pledge of incentive grants made by the developer shall  
23 be valid and binding from the time when the pledge is made and  
24 filed in the records of the authority. The incentive grants so  
25 pledged and thereafter received by the developer shall immediately  
26 be subject to the lien of the pledge without any physical delivery  
27 thereof or further act, and the lien of any pledge shall be valid and  
28 binding as against all parties having claims of any kind in tort,  
29 contract, or otherwise against the developer irrespective of whether  
30 the parties have notice thereof. Neither the redevelopment  
31 incentive grant agreement nor any other instrument by which a  
32 pledge under this section is created need be filed or recorded except  
33 with the authority.

34 (cf: P.L.2010, c.10, s.9)

35

36 <sup>1</sup>**[19.] 20.**<sup>1</sup> Section 11 of P.L.2009, c.90 (C.52:27D-489k) is  
37 amended to read as follows:

38 11. a. The governing body of a municipality is authorized to  
39 enter into a redevelopment incentive grant agreement with a  
40 developer, which shall not be effective until adopted by ordinance,  
41 for any redevelopment project located within a qualifying economic  
42 redevelopment and growth grant incentive area.

43 b. The redevelopment incentive grant agreement shall specify  
44 the maximum amount of project costs, the amount of the incentive  
45 grant to be awarded the developer, the frequency of payments, and  
46 the **[length of time, which shall not exceed 20 years, during which**  
47 **that reimbursement shall be granted]** eligibility period. The



1 maximum amount of any municipal redevelopment incentive grant  
2 shall be equal to:

3 (1) 100 percent of the project costs in the case of a municipal  
4 redeveloper, or

5 (2) for all other developers, <sup>2</sup>[the sum of 75 percent of the costs  
6 of environmental remediation, 100 percent of the costs of  
7 infrastructure improvements in the public right-of-way, including  
8 any ancillary infrastructure project in the public right-of-way, and  
9 20 percent of the amount determined by subtracting the costs of  
10 infrastructure improvements in the public right-of-way including  
11 any ancillary infrastructure project in the public right-of-way from  
12 the total project costs] the maximum amount of any redevelopment  
13 incentive grant agreement shall be 30 percent of the total project  
14 costs, or 40 percent if located in a Garden State Growth Zone<sup>2</sup> .

15 <sup>2</sup>[Except for redevelopment incentive grants with a municipal  
16 redeveloper or with the developer of a redevelopment project solely  
17 with respect to the cost of infrastructure improvements in the public  
18 right-of-way including any ancillary infrastructure project in the  
19 public right-of-way, in no event shall the combined amount of the  
20 reimbursements under redevelopment incentive grant agreements  
21 with the State or municipality exceed 20 percent of the total project  
22 cost [of the project] plus any increase or bonus award of the State  
23 portion of such combined amount as set forth in subsection d. of  
24 section 9 of P.L.2009, c.90 (C.52:27D-489i).]<sup>2</sup> **【For the purposes**  
25 **of calculating the total cost of all projects, the cost of publicly**  
26 **owned facilities shall not be included. The amount of the**  
27 **redevelopment incentive grant for a municipal redeveloper may**  
28 **include the total cost of such infrastructure improvements and**  
29 **publicly owned facilities.】**

30 c. **【The】** Except in the case of a qualified residential project,  
31 the municipality may enter into a redevelopment incentive grant  
32 agreement only if the chief financial officer of the municipality  
33 makes a finding that the incremental revenues to be realized from  
34 the redevelopment project will be in excess of the amount necessary  
35 to reimburse the developer for its project financing gap. Such  
36 finding shall be based upon appropriate documentation and  
37 calculations supporting the decision.

38 d. Within a qualifying economic redevelopment and growth  
39 grant incentive area a municipality that has entered into a local  
40 redevelopment incentive grant agreement may pledge eligible  
41 revenues it is authorized to collect as follows:

42 (1) incremental payments in lieu of taxes, with respect to  
43 property located in the district, made pursuant to the "Five-Year  
44 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et  
45 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431  
46 (C.40A:20-1 et al.);

- 1 (2) incremental revenues collected from payroll taxes, with  
2 respect to business activities carried on within the area, pursuant to  
3 section 15 of P.L.1970, c.326 (C.40:48C-15);
- 4 (3) incremental revenue from lease payments made to the  
5 municipality, the developer, or the developer's successors with  
6 respect to property located in the area;
- 7 (4) incremental revenue collected from parking taxes derived  
8 from parking facilities located within the area pursuant to section 7  
9 of P.L.1970, c.326 (C.40:48C-7);
- 10 (5) incremental admissions and sales taxes derived from the  
11 operation of a public facility within the area pursuant to section 1 of  
12 P.L.2007, c.302 (C.40:48G-1);
- 13 (6) (a) incremental sales and excise taxes which are derived from  
14 activities within the area and which are rebated to or retained by the  
15 municipality pursuant to the "New Jersey Urban Enterprise Zones  
16 Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law  
17 providing for such rebate or retention;
- 18 (b) within Planning Area 1 (Metropolitan) under the State  
19 Development and Redevelopment Plan adopted pursuant to the  
20 "State Planning Act," sections 1 through 12 of P.L.1985, c.398  
21 (C.52:18A-196 et seq.), a municipality may impose the entire State  
22 sales tax on business activities within a redevelopment project  
23 located in an urban enterprise zone that would ordinarily be entitled  
24 to collect reduced rate revenues under section 21 of P.L.1983, c.303  
25 (C.52:27H-80), and pledge the excess revenues to a local  
26 redevelopment incentive grant agreement;
- 27 (7) incremental parking revenue collected, pursuant to section 7  
28 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built  
29 as part of a redevelopment project, except for public parking  
30 facilities owned by parking authorities pursuant to the "Parking  
31 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);
- 32 (8) incremental revenues collected, pursuant to section 3 of  
33 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),  
34 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel  
35 taxes;
- 36 (9) upon approval by the Local Finance Board, other incremental  
37 municipal revenues that may become available;
- 38 (10) the property tax increment <sup>2</sup>, except in the case of a Garden  
39 State Growth Zone, in which such property tax increment and any  
40 other incremental revenues are calculated as those incremental  
41 revenues that would have existed notwithstanding the provisions of  
42 the "New Jersey Economic Opportunity Act of 2013," P.L. \_\_\_\_\_,  
43 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill)<sup>2</sup>.
- 44 The incremental revenue for the revenues listed in this  
45 subsection, when applicable, shall be calculated as the difference  
46 between the amount collected in any fiscal year from any eligible  
47 revenue source included in the local redevelopment incentive grant

1 agreement, less the revenue increment base for that eligible  
2 revenue.

3 e. (1) In calculating the general tax rate of a municipality each  
4 year, the aggregate amount of the incremental ratable value over the  
5 property tax increment base in the redevelopment project area that  
6 is pledged as part of a redevelopment incentive grant agreement  
7 shall be excluded from the ratable base of a municipality.

8 (2) The amount of property tax increment not pledged toward a  
9 redevelopment incentive grant agreement shall be allocated  
10 pursuant to the normal tax rate distribution.

11 The full incremental value of a project area shall be included in  
12 the value used for county and regional school tax apportionment  
13 until such time that the Director of the Division of Taxation in the  
14 Department of the Treasury can certify that property tax  
15 management systems are capable of handling the technical and legal  
16 requirements of treating parcels in areas of redevelopment as  
17 exempt from county and regional school apportionment.

18 f. In addition to the incremental revenues that may be pledged  
19 in subsection d. of this section, any amount of tax proceeds  
20 collected from the tax on the rental of motor vehicles pursuant to  
21 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a  
22 redevelopment incentive grant agreement with a developer,  
23 regardless of whether or not the redevelopment project area is  
24 within or outside of the designated industrial zone from which the  
25 tax on the rental of motor vehicles is collected.

26 g. (1) A developer that has entered into a redevelopment  
27 incentive grant agreement with a municipality pursuant to this  
28 section may, upon notice to and consent of the municipality, pledge  
29 **[and]**, assign **[as security or support for any loan or bond]**,  
30 transfer, or sell any or all of its right, title and interest in and to  
31 such agreements and in the incentive grants payable thereunder, and  
32 the right to receive same, along with the rights and remedies  
33 provided to the developer under such agreement. Any such  
34 assignment shall be an absolute assignment for all purposes,  
35 including the federal bankruptcy code.

36 (2) Any pledge of incentive grants made by the developer shall  
37 be valid and binding from the time when the pledge is made and  
38 filed in the office of the municipal clerk. The incentive grants so  
39 pledged and thereafter received by the developer shall immediately  
40 be subject to the lien of the pledge without any physical delivery  
41 thereof or further act, and the lien of any pledge shall be valid and  
42 binding as against all parties having claims of any kind in tort,  
43 contract, or otherwise against the developer irrespective of whether  
44 the parties have notice thereof. Neither the redevelopment  
45 incentive grant agreement nor any other instrument by which a  
46 pledge under this section is created need be filed or recorded except  
47 with the municipality.

48 (cf: P.L.2010, c.10, s.10)

1       <sup>1</sup>[20.] 21.<sup>1</sup> (New section) On or before <sup>2</sup>[January] July<sup>2</sup> 1,  
2 2018, the authority shall submit a written report to the Governor  
3 and the Legislature providing a comprehensive review and analysis  
4 of the Grow New Jersey Assistance Program, established pursuant  
5 to P.L.2011, c.149 (C.34:1B-242 et seq.), the State Economic  
6 Redevelopment and Growth Grant program, established pursuant to  
7 section 5 of P.L.2009, c.90 (C.52:27D-489e), and other economic  
8 incentive laws under the authority's jurisdiction <sup>2</sup>, with particular  
9 emphasis on the recalibration of those programs and the creation of  
10 Garden State Growth Zones, pursuant to of P.L. , c. (C. )  
11 (pending before the Legislature as this bill), and the effectiveness of  
12 those programs on economic development and private-sector job  
13 retention and growth<sup>2</sup> . In order to ensure the independence and  
14 objectivity of the report, the authority shall retain a premier, not-  
15 for-profit, non-partisan entity to undertake the review and analysis  
16 of the State economic incentive laws, which shall include a cost-  
17 benefit analysis of each incentive program, an assessment of the  
18 success of each program in meeting the goals of the program, and  
19 any recommendations for improving the operation and effectiveness  
20 of each program, including recommendations for legislation.

21

22       <sup>4</sup>[22.] (New section) As used in section 23 of P.L. ,  
23 c. (C. ) (pending before the Legislature as this bill):

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

26       "Developer" means a person who undertakes the repurposing of  
27 a qualified health care facility.

28       "Capital investment" in a qualified health care facility means  
29 expenses incurred after the effective date of P.L. , c. (C. )  
30 (pending before the Legislature as this bill) for: the acquisition, site  
31 preparation and construction, repair, renovation, improvement,  
32 equipping, or furnishing of a building, structure, facility or  
33 improvement to real property.

34       "Full-time employee" means a person employed for  
35 consideration for at least 35 hours a week, or who renders any other  
36 standard of service generally accepted by custom or practice as full-  
37 time employment and whose wages are subject to withholding as  
38 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
39 et seq., or who is a partner of a partnership who works for the  
40 partnership for at least 35 hours a week, or who renders any other  
41 standard of service generally accepted by custom or practice as full-  
42 time employment, and whose distributive share of income, gain,  
43 loss, or deduction, or whose guaranteed payments, or any  
44 combination thereof, is subject to the payment of estimated taxes, as  
45 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
46 et seq., and includes only a person whose employer provides  
47 employee health benefits under a group health plan as defined under

1 section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan  
2 as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a  
3 policy or contract of health insurance covering more than one  
4 person issued pursuant to Article 2 of Title 17B of the New Jersey  
5 Statutes. "Full-time employee" shall not include a person who  
6 works as an independent contractor or on a consulting basis for the  
7 business.

8 "Qualified health care facility" means a building, complex of  
9 buildings, or structural components of buildings previously licensed  
10 by the Department of Health which have been granted a certificate  
11 of need to cease all or partial operation.

12 "Repurposing of a qualified health care facility" means the  
13 renovation and redevelopment of a qualified health care facility as a  
14 non-acute health care and health support services center.<sup>2</sup>]<sup>4</sup>

15  
16 <sup>4</sup>[<sup>2</sup>23. (New section) a. (1) A developer, upon application to and  
17 approval from the authority, shall be allowed a credit of 75 percent,  
18 or by determination of the authority of up to 100 percent, of its  
19 capital investment, made after the effective date of P.L. , c. (C. )  
20 (pending before the Legislature as this bill) but prior to its  
21 submission of documentation pursuant to subsection b. of this  
22 section, for the repurposing of a qualified health care facility. The  
23 non-acute health care and health support services components of the  
24 repurposed facility shall comprise no less than 50 percent of the net  
25 leasable space of the repurposed facility, provided however that the  
26 50 percent requirement may be waived by the authority if the  
27 requirement is not economically feasible or if the inclusion of  
28 additional non-health care and non-health support services elements  
29 would improve the utilization and development of the health care  
30 and health support services components. To be eligible for any tax  
31 credits authorized under this section, a developer shall demonstrate  
32 to the authority, at the time of application, that the State's financial  
33 support of the proposed capital investment in a qualified health care  
34 facility will not destabilize the supply and delivery of acute care  
35 health services in its market, will yield a net positive benefit to the  
36 State and local government, and, through a project pro forma  
37 analysis at the time of application, that the repurposing of the  
38 qualified health care facility is likely to be realized with the  
39 provision of tax credits at the level requested but is not likely to be  
40 accomplished by private enterprise without the tax credits.

41 (2) A developer shall make or acquire capital investments  
42 totaling not less than \$10,000,000 in a qualified health care facility,  
43 at which the tenant businesses shall employ not fewer than 100 full-  
44 time employees, to be eligible for a credit under this section. A  
45 successor to a developer that acquires a repurposed qualified health  
46 care facility shall also be deemed to have acquired the capital  
47 investment made or acquired by the developer.

1       (3) Full-time employment for a privilege period or taxable year  
2 shall be determined as the average of the monthly full-time  
3 employment for the period.

4       (4) All construction projects for the repurposing of a qualified  
5 health care facility entered into pursuant to this section shall contain  
6 a project labor agreement. The project labor agreement shall be  
7 subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.). A  
8 general contractor, construction manager, design-build team, or  
9 subcontractor for a construction project proposed in accordance  
10 with this paragraph shall be registered pursuant to the provisions of  
11 P.L.1999, c.238 (C.34:11-56.48 et seq.).

12       b. A developer shall apply for the credit and submit its  
13 documentation for approval of its credit amount prior to July 1,  
14 2019. The authority shall not approve an application for tax credits  
15 unless the application was submitted to the authority prior to July 1,  
16 2019.

17       c. (1) The amount of credit allowed shall, except as otherwise  
18 provided, be equal to the capital investment made by the developer,  
19 and shall be taken over a 10-year period, at the rate of one-tenth of  
20 the total amount of the developer's credit for each privilege period  
21 or taxable year of the developer, beginning with the privilege period  
22 or taxable year in which the developer is first approved by the  
23 authority as having met the investment capital and employment  
24 qualifications, subject to any reduction or disqualification as  
25 provided by subsection d. of this section as determined by annual  
26 review by the authority. In conducting its annual review, the  
27 authority may require a developer to submit any information  
28 determined by the authority to be necessary and relevant to its  
29 review.

30       (2) The amount of credit allowed may be applied against the  
31 corporation business tax liability otherwise due pursuant to section  
32 5 of P.L.1945, c.162 (C.54:10A-5) or the tax liability otherwise due  
33 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
34 et seq.

35       (3) A business entity that is classified as a partnership for  
36 federal income tax purposes shall not be allowed a credit directly,  
37 but the amount of credit of a taxpayer in respect of a distributive  
38 share of partnership income, shall be determined by allocating to  
39 the taxpayer that proportion of the credit acquired by the  
40 partnership that is equal to the taxpayer's share, whether or not  
41 distributed, of the total distributive income or gain of the  
42 partnership for its taxable year ending within or with the taxpayer's  
43 taxable year.

44       A New Jersey S Corporation shall not be allowed a credit  
45 directly under the gross income tax, but the amount of credit of a  
46 taxpayer in respect of a pro rata share of S Corporation income,  
47 shall be determined by allocating to the taxpayer that proportion of  
48 the credit acquired by the New Jersey S Corporation that is equal to

1 the taxpayer's share, whether or not distributed, of the total pro rata  
2 share of S Corporation income of the New Jersey S Corporation for  
3 its privilege period ending within or with the taxpayer's taxable  
4 year.

5 d. If, in any privilege period or taxable year, the number of  
6 full-time employees employed at the repurposed qualified health  
7 care facility is fewer than 80 then the amount of credit otherwise  
8 allowed to the developer for the privilege period or taxable year  
9 shall be reduced by the percentage determined by dividing 100  
10 minus the number of employees employed at the facility for that tax  
11 period by 100 and similarly for each subsequent tax period, until the  
12 first tax period for which documentation demonstrating the  
13 restoration of the number of full-time employees employed at the  
14 repurposed qualified health care facility to 100 has been reviewed  
15 and approved by the authority, for which tax period and each  
16 subsequent tax period the full amount of the credit shall be allowed.

17 e. The authority, in consultation with the Director of the  
18 Division of Taxation in the Department of the Treasury, shall adopt  
19 rules in accordance with the "Administrative Procedure Act,"  
20 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement  
21 the provisions of this section, including but not limited to: examples  
22 of and the determination of capital investment; the promulgation of  
23 procedures and forms necessary to apply for a credit; and provisions  
24 for credit applicants to be charged an initial application fee, and  
25 ongoing service fees, to cover the administrative costs related to the  
26 credit.<sup>2]4</sup>

27  
28 <sup>4[224.] 22.4</sup> (New section) The Legislature finds and declares  
29 that:

30 a. Healthy, thriving municipalities are vital to the health,  
31 safety, and economic well-being of the State.

32 b. Municipalities that are economically distressed adversely  
33 impact not only that municipality, but also affect the county and  
34 region where they are located as well as the whole State.

35 c. Numerous programs have been previously established to  
36 assist municipalities in economic and fiscal distress to enable them  
37 to regain health and vitality, including programs to provide  
38 increasing degrees of oversight and to provide substantial amounts  
39 of financial aid and incentives.

40 d. While these existing programs have proven successful in  
41 aiding a number of municipalities, others are in such difficult straits  
42 that such measures have not proven sufficient. Thus, extraordinary  
43 measures are required now to turn around the fate of such  
44 municipalities.

45 e. The new programs provided herein will have a substantial  
46 likelihood of achieving success where prior programs have not, and  
47 employing these programs now is crucial to the economic well-  
48 being of the county, region, and State.

1 f. Accordingly, the municipalities identified as Garden State  
2 Growth Zones are hereby declared blighted areas and areas in need  
3 of rehabilitation, provided however, that this declaration alone shall  
4 not be used to allow any property to be taken or acquired.<sup>2</sup>

5  
6 <sup>4</sup>[<sup>25</sup>] 23.<sup>4</sup> (New section) As used in section <sup>4</sup>[<sup>26</sup>] 24<sup>4</sup> of  
7 P.L. , c. (C. ) (pending before the Legislature as this bill):

8 “Director” means the Direction of the Division of Taxation.

9 “Division of Codes and Standards” means the Division of Codes  
10 and Standards located in the Department of Community Affairs.

11 “Eligible person” means any individual purchasing or renting an  
12 eligible residential residence within a growth zone after the  
13 enactment of P.L. , c. (C. ) (pending before the Legislature  
14 as this bill). For the purpose of this definition, an eligible person is  
15 limited to those who establish a permanent residency at the eligible  
16 residential residence, are subject to the "New Jersey Gross Income  
17 Tax Act," N.J.S.54A:1-1 et seq., and are current with all State and  
18 local tax obligations.

19 “Eligible property” means any residential, commercial,  
20 industrial, or other business property, located in a Garden State  
21 Growth Zone, that receives a Certificate of Occupancy or is  
22 transferred in a legal sale on or after July 1, 2013. Purchasers of  
23 newly constructed homes are not the applicant.

24 “Exemption” means that portion of the assessor’s full and true  
25 value of any improvement, conversion, alteration, redevelopment,  
26 rehabilitation, or construction not regarded as increasing the taxable  
27 value of a property pursuant to P.L. , c. (C. ) (pending  
28 before the Legislature as this bill) for the purposes of encouraging  
29 the construction, conversion, improvement, and redevelopment of  
30 real property conducted by eligible businesses or residents within a  
31 growth zone pursuant to P.L. , c. (C. ) (pending before the  
32 Legislature as this bill).

33 “Garden State Growth Zone” or “growth zone” means the four  
34 New Jersey cities with the lowest median family income based on  
35 the 2009 American Community Survey from the US Census, (Table  
36 708. Household, Family, and Per Capita Income and Individuals,  
37 and Families Below Poverty Level by City: 2009).

38 “Garden State Growth Zone Development Entity” means a  
39 private corporation incorporated pursuant to Title 14A of the New  
40 Jersey Statutes, or established pursuant to Title 42 of the Revised  
41 Statutes, for which the profits of the entity are limited as follows.  
42 The allowable net profits of the entity shall be determined by  
43 applying the allowable profit rate to the total project cost, and all  
44 capital costs, determined in accordance with generally accepted  
45 accounting principles, of any other entity whose revenue is included  
46 in the computation of excess profits, for the period commencing on  
47 the date on which the construction of the project is completed, and



1 terminating at the close of the fiscal year of the entity preceding the  
2 date on which the computation is made, where:

3 "Allowable profit rate" means the greater of 12 percent or the  
4 percentage per annum arrived at by adding one and 1/4 percent to  
5 the annual interest percentage rate payable on the entity's initial  
6 permanent mortgage financing. If the initial permanent mortgage is  
7 insured or guaranteed by a governmental agency, the mortgage  
8 insurance premium or similar charge, if payable on a per annum  
9 basis, shall be considered as interest for this purpose. If there is no  
10 permanent mortgage financing the allowable profit rate shall be the  
11 greater of 12 percent or the percentage per annum arrived at by  
12 adding one and 1/4 percent per annum to the interest rate per annum  
13 which the municipality determines to be the prevailing rate on  
14 mortgage financing on comparable improvements in the county.

15 "Improvements" means any repair, construction, or  
16 reconstruction, including alterations and additions, having the effect  
17 of rehabilitating a deteriorated property so that it becomes habitable  
18 or attains higher standards of safety, health, economic use or  
19 amenity, or is brought into compliance with laws, ordinances or  
20 regulations governing such standards. Ordinary upkeep and  
21 maintenance shall not be deemed an improvement.<sup>2</sup>

22  
23 <sup>4</sup>[<sup>2</sup>26.] 24.<sup>4</sup> (New section) a. A Garden State Growth Zone  
24 Development Entity is authorized to undertake clearance, re-  
25 planning, development, or redevelopment of property within a  
26 Garden State Growth Zone.

27 b. Notwithstanding any other law to the contrary, every Garden  
28 State Growth Zone Development Entity that owns real property  
29 within a Garden State Growth Zone and that undertakes the  
30 clearance, re-planning, development, or redevelopment of such  
31 property is hereby granted an exemption on improvements to such  
32 eligible property for any new construction, improvements, or  
33 substantial rehabilitation of structures on real property for a period  
34 of 20 years from receiving a final Certificate of Occupancy,  
35 provided however, that a municipality located within the Garden  
36 State Growth Zone shall, by ordinance, opt-in to such program  
37 within 90 calendar days of the enactment of P.L. , c. (C. )  
38 (pending before the legislature as this bill). The exemption allowed  
39 by this subsection shall be dependent upon: (1) the owner of the real  
40 property making improvements to the real property after the  
41 enactment of P.L. , c. (C. ) (pending before the Legislature as  
42 this bill); and (2) the Division of Codes and Standards, in  
43 consultation with the eligible municipality, issuing a final  
44 Certificate of Occupancy within 10 years of the date of enactment  
45 of P.L. , c. (C. ) (pending before the Legislature as this  
46 bill).

47 c. The exemption granted by subsection b. of this section shall  
48 be for a period of 20 years. For the first 10 years immediately

1 subsequent to the issuance of a Certificate of Occupancy, the  
2 Garden State Growth Zone Development Entity shall be exempt  
3 from the payment of taxes on the improvements to the eligible  
4 property. Thereafter, the Garden State Growth Zone Development  
5 Entity shall pay to the municipality in lieu of full property tax  
6 payments an amount equal to a percentage of taxes otherwise due,  
7 according to the following schedule:

8 (1) In the eleventh year after completion, 10 percent of taxes  
9 otherwise due;

10 (2) In the twelfth year after completion, 20 percent of taxes  
11 otherwise due;

12 (3) In the thirteenth year after completion, 30 percent of taxes  
13 otherwise due;

14 (4) In the fourteenth year after completion, 40 percent of taxes  
15 otherwise due;

16 (5) In the fifteenth year after completion, 50 percent of taxes  
17 otherwise due;

18 (6) In the sixteenth year after completion, 60 percent of taxes  
19 otherwise due;

20 (7) In the seventeenth year after completion, 70 percent of taxes  
21 otherwise due;

22 (8) In the eighteenth year after completion, 80 percent of taxes  
23 otherwise due;

24 (9) In the nineteenth full year after completion, 90 percent of  
25 taxes otherwise due;

26 (10) In the twentieth year after completion, and each year  
27 thereafter, 100 percent of taxes.

28 An amount not less than five percent of all payments pursuant to  
29 this subsection shall be paid to the county in which the municipality  
30 is located.

31 d. Upon the termination of the exemption granted pursuant to  
32 subsection c. of this section, the project, all affected parcels, land,  
33 and all improvements made thereto shall be assessed and subject to  
34 taxation as are other taxable properties in the municipality. After  
35 the date of termination, all restrictions and limitations upon the  
36 Garden State Growth Zone Development Entity shall terminate and  
37 be at an end upon the entity's rendering its final accounting to and  
38 with the municipality.

39 e. Notwithstanding subsection b. of this section, the owner of  
40 any property located within a Garden State Growth Zone, that does  
41 not qualify as a Garden State Growth Zone Development Entity,  
42 that performs any new construction, improvements, or substantial  
43 rehabilitation improvements to property, shall be entitled to an  
44 exemption from taxation regarding such improvements as provided  
45 herein. For purposes of such exemption, the municipality shall  
46 consider the assessor's full and true value of the improvements as  
47 not increasing the value of the property for a period of five years,

1 notwithstanding that the value of the property to which the  
2 improvements are made is increased thereby.

3 f. Any exemption obtained under this section shall be fully  
4 transferable upon the sale of real property, as long as the new owner  
5 meets all requirements for exemption set forth pursuant to this  
6 section.<sup>2</sup>

7

8 <sup>4</sup>**[<sup>2</sup>27.] 25.**<sup>4</sup> Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is  
9 amended to read as follows:

10 6. a. (1) A business, upon application to and approval from the  
11 authority, shall be allowed a credit of 100 percent of its capital  
12 investment, made after the effective date of P.L.2010, c.57 (C.48:3-  
13 87.1 et al.) but prior to its submission of documentation pursuant to  
14 subsection c. of this section, in a qualified wind energy facility  
15 located within an eligible wind energy zone, pursuant to the  
16 restrictions and requirements of this section. To be eligible for any  
17 tax credits authorized under this section, a business shall  
18 demonstrate to the authority, at the time of application, that the  
19 State's financial support of the proposed capital investment in a  
20 qualified wind energy facility will yield a net positive benefit to the  
21 State. The value of all credits approved by the authority pursuant to  
22 this section may be up to \$100,000,000, except as may be increased  
23 by the authority **[**as set forth below; provided, however, that the  
24 combined value of all credits approved by the authority pursuant to  
25 P.L.2007, c.346 (C.34:1B-207 et seq.), P.L.2009, c.90 (C.52:27D-  
26 489a et al.), and P.L.2010, c.57 (C.48:3-87.1 et al.) shall not exceed  
27 \$1,750,000,000. The authority shall monitor application and  
28 allocation activity under P.L.2007, c.346 after taking into account  
29 the allocation under P.L.2007, c.346 and if sufficient credits are  
30 available to those qualified business facilities for which  
31 applications have been filed or for which applications are  
32 reasonably anticipated, and**]** if the chief executive officer judges  
33 certain qualified offshore wind projects to be meritorious **[**, the  
34 aforementioned cap may, in the discretion of the chief executive  
35 officer, be exceeded for allocation to qualified wind energy  
36 facilities in such amounts as the chief executive officer deems  
37 reasonable, justified and appropriate**]**. Credits provided pursuant to  
38 this section shall not be applicable to the cap on the credits  
39 provided in section 3 of P.L.2007, c.346 (C.34:1B-209).

40 (2) (a) A business, other than a tenant eligible pursuant to  
41 subparagraph (b) of this paragraph, shall make or acquire capital  
42 investments totaling not less than \$50,000,000 in a qualified wind  
43 energy facility, at which the business, including tenants at the  
44 qualified wind energy facility, shall employ at least 300 new, full-  
45 time employees, to be eligible for a credit under this section. A  
46 business that acquires a qualified wind energy facility after the  
47 effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall also be

1 deemed to have acquired the capital investment made or acquired  
2 by the seller.

3 (b) A business that is a tenant in the qualified wind energy  
4 facility, the owner of which has made or acquired capital  
5 investments in the facility totaling more than \$50,000,000, shall  
6 occupy a leased area of the qualified wind energy facility that  
7 represents at least \$17,500,000 of the capital investment in the  
8 qualified wind energy facility at which at least 300 new, full-time  
9 employees in the aggregate are employed, to be eligible for a credit  
10 under this section. The amount of capital investment in a facility  
11 that a leased area represents shall be equal to that percentage of the  
12 owner's total capital investment in the facility that the percentage of  
13 net leasable area leased by the tenant is of the total net leasable area  
14 of the qualified business facility. Capital investments made by a  
15 tenant shall be deemed to be included in the calculation of the  
16 capital investment made or acquired by the owner, but only to the  
17 extent necessary to meet the owner's minimum capital investment of  
18 \$50,000,000. Capital investments made by a tenant and not  
19 allocated to meet the owner's minimum capital investment threshold  
20 of \$50,000,000 shall be added to the amount of capital investment  
21 represented by the tenant's leased area in the qualified wind energy  
22 facility.

23 (c) The calculation of the number of new, full-time employees  
24 required pursuant to subparagraphs (a) and (b) of this paragraph  
25 may include the number of new, full-time positions resulting from  
26 an equipment supply coordination agreement with equipment  
27 manufacturers, suppliers, installers and operators associated with  
28 the supply chain required to support the qualified wind energy  
29 facility.

30 For the purposes of this paragraph, "full time employee" shall  
31 not include an employee who is a resident of another state and  
32 whose income is not subject to the "New Jersey Gross Income Tax  
33 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a  
34 reciprocity agreement with the State of New Jersey, provided that  
35 any employee whose work is provided pursuant to a collective  
36 bargaining agreement with the port district in the wind energy zone  
37 may be included.

38 (3) A business shall not be allowed a tax credit pursuant to this  
39 section if the business participates in a business employment  
40 incentive grant relating to the same capital and employees that  
41 qualify the business for this credit, or if the business receives  
42 assistance pursuant to the "Business Retention and Relocation  
43 Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business  
44 that is allowed a tax credit under this section shall not be eligible  
45 for incentives authorized pursuant to the "Municipal Rehabilitation  
46 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
47 al.).

- 1 (4) Full-time employment for an accounting or privilege period  
2 shall be determined as the average of the monthly full-time  
3 employment for the period.
- 4 b. A business shall apply for the credit **【within five years after**  
5 **the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.)】** by  
6 August 1, 2016, and a business shall submit its documentation for  
7 approval of its credit amount **【within eight years after the effective**  
8 **date of P.L.2007, c.346】** by August 1, 2019.
- 9 c. The credit allowed pursuant to this section shall be  
10 administered in accordance with the provisions of subsection c. of  
11 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of  
12 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to  
13 "qualified business facility" shall be deemed to refer to "qualified  
14 wind energy facility," as that term is defined in subsection f. of this  
15 section.
- 16 d. The amount of the credit allowed pursuant to this section  
17 shall, except as otherwise provided, be equal to the capital  
18 investment made by the business, or the capital investment  
19 represented by the business' leased area, and shall be taken over a  
20 10-year period, at the rate of one-tenth of the total amount of the  
21 business' credit for each tax accounting or privilege period of the  
22 business, beginning with the tax period in which the business is first  
23 approved by the authority as having met the investment capital and  
24 employment qualifications, subject to any disqualification as  
25 determined by annual review by the authority. In conducting its  
26 annual review, the authority may require a business to submit any  
27 information determined by the authority to be necessary and  
28 relevant to its review. The credit amount for any tax period ending  
29 after the date eight years after the effective date of P.L.2007, c.346  
30 (C.34:1B-207 et seq.) during which the documentation of a  
31 business' credit amount remains unapproved shall be forfeited,  
32 although credit amounts for the remainder of the years of the 10-  
33 year credit period shall remain available. The amount of the credit  
34 allowed for a tax period to a business that is a tenant in a qualified  
35 wind energy facility shall not exceed the business' total lease  
36 payments for occupancy of the qualified wind energy facility for the  
37 tax period.
- 38 e. The authority shall adopt rules in accordance with the  
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
40 seq.) as are necessary to implement this section, including but not  
41 limited to: examples of and the determination of capital investment;  
42 nature of businesses and employment positions constituting and  
43 participating in an equipment supply coordination agreement;  
44 determination of the types of businesses that may be eligible and  
45 expenses that may constitute capital improvements; promulgation of  
46 procedures and forms necessary to apply for a credit; and provisions

1 for applicants to be charged an initial application fee, and ongoing  
2 service fees, to cover the administrative costs related to the credit.

3 The rules established by the authority pursuant to this subsection  
4 shall be effective immediately upon filing with the Office of  
5 Administrative Law and shall be effective for a period not to exceed  
6 12 months and may, thereafter, be amended, adopted or readopted  
7 in accordance with the provisions of the "Administrative Procedure  
8 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

9 f. As used in this section: the terms "authority," "business,"  
10 and "capital investment" shall have the same meanings as defined in  
11 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,  
12 c.346 (C.34:1B-208), except that all references therein to "qualified  
13 business facility" shall be deemed to refer to "qualified wind energy  
14 facility" as defined in this subsection.

15 In addition, as used in this section:

16 "Equipment supply coordination agreement" means an agreement  
17 between a business and equipment manufacturer, supplier, installer,  
18 and operator that supports a qualified offshore wind project, or  
19 other wind energy project as determined by the authority, and that  
20 indicates the number of new, full-time jobs to be created by the  
21 agreement participants towards the employment requirement as set  
22 forth in paragraph (2) of subsection a. of this section.

23 "Qualified offshore wind project" means the same as the term is  
24 defined in section 3 of P.L.1999, c.23 (C.48:3-51).

25 "Qualified wind energy facility" means any building, complex of  
26 buildings, or structural components of buildings, including water  
27 access infrastructure, and all machinery and equipment used in the  
28 manufacturing, assembly, development or administration of  
29 component parts that support the development and operation of a  
30 qualified offshore wind project, or other wind energy project as  
31 determined by the authority, and that are located in a wind energy  
32 zone.

33 "Wind energy zone" means property located in the South Jersey  
34 Port District established pursuant to "The South Jersey Port  
35 Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).<sup>2</sup>

36 (cf: P.L.2012, c.35, s.3)

37

38 <sup>4</sup>[<sup>28</sup>28.] 26.<sup>4</sup> Section 43 of P.L.2009, c.90 (C.18A:64-85) is  
39 amended to read as follows:

40 43. a. (1) A State college or county college may enter into a  
41 contract with a private entity, subject to subsection f. of this section,  
42 to be referred to as a public-private partnership agreement, that  
43 permits the private entity to assume full financial and administrative  
44 responsibility for the on-campus construction, reconstruction,  
45 repair, alteration, improvement, extension, management, or  
46 operation of a building, structure, or facility of, or for the benefit of,  
47 the institution, provided that the project is financed in whole by the  
48 private entity and that the State or institution of higher education, as

1 applicable, retains full ownership of the land upon which the project  
2 is completed.

3 (2) A public-private partnership agreement may include an  
4 agreement under which a State or county college leases to a private  
5 entity the operation of a dormitory or other revenue-producing  
6 facility to which the college holds title, in exchange for up-front or  
7 structured financing by the private entity for the construction of  
8 classrooms, laboratories, or other academic buildings. Under the  
9 lease agreement, the college shall continue to hold title to the  
10 facility, and the private entity shall be responsible for the  
11 management, operation, and maintenance of the facility. The  
12 private entity shall receive some or all, as per the agreement, of the  
13 revenue generated by the facility and shall operate the facility in  
14 accordance with college standards. A lease agreement shall not  
15 affect the status or employment rights of college employees who are  
16 assigned to, or provide services to, the leased facility. At the end of  
17 the lease term, subsequent revenue generated by the facility, along  
18 with management, operation, and maintenance responsibility, shall  
19 revert to the college.

20 b. (1) A private entity that assumes financial and administrative  
21 responsibility for a project pursuant to subsection a. of this section  
22 shall not be subject to the procurement and contracting  
23 requirements of all statutes applicable to the institution of higher  
24 education at which the project is completed, including, but not  
25 limited to, the "State College Contracts Law," P.L.1986, c.43  
26 (C.18A:64-52 et seq.), and the "County College Contracts Law,"  
27 P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of  
28 facilitating the financing of a project pursuant to subsection a. of  
29 this section, a public entity may become the owner or lessee of the  
30 project or the lessee of the land, or both, may become the lessee of a  
31 dormitory or other revenue-producing facility to which the college  
32 holds title, may issue indebtedness in accordance with the public  
33 entity's enabling legislation and, notwithstanding any provision of  
34 law to the contrary, shall be empowered to enter into contracts with  
35 a private entity and its affiliates without being subject to the  
36 procurement and contracting requirements of any statute applicable  
37 to the public entity provided that the private entity has been selected  
38 by the institution of higher education pursuant to a solicitation of  
39 proposals or qualifications. For the purposes of this section, a  
40 public entity shall include the New Jersey Economic Development  
41 Authority, and any project undertaken pursuant to subsection a. of  
42 this section of which the authority becomes the owner or lessee, or  
43 which is situated on land of which the authority becomes the lessee,  
44 shall be deemed a "project" under the "New Jersey Economic  
45 Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

46 (2) As the carrying out of any project described pursuant to this  
47 section constitutes the performance of an essential public function,  
48 all projects predominantly used in furtherance of the educational

1 purposes of the institution undertaken pursuant to this section,  
2 provided it is owned by or leased to a public entity, non-profit  
3 business entity, foreign or domestic, or a business entity wholly  
4 owned by such non-profit business entity, shall at all times be  
5 exempt from property taxation and special assessments of the State,  
6 or any municipality, or other political subdivision of the State and,  
7 notwithstanding the provisions of section 15 of P.L.1974, c.80  
8 (C.34:1B-15) **[or]**, section 2 of P.L.1977, c.272 (C.54:4-2.2b), or  
9 any other section of law to the contrary, shall not be required to  
10 make payments in lieu of taxes. The land upon which the project is  
11 located shall also at all times be exempt from property taxation.  
12 Further, the project and land upon which the project is located shall  
13 not be subject to the provisions of section 1 of P.L.1984, c.176  
14 (C.54:4-1.10) regarding the tax liability of private parties  
15 conducting for profit activities on tax exempt land, or section 1 of  
16 P.L.1949, c.177 (C.54:4-2.3) regarding the taxation of leasehold  
17 interests in exempt property that are held by nonexempt parties.

18 c. Each worker employed in the construction, rehabilitation, or  
19 building maintenance services of facilities by a private entity that  
20 has entered into a public-private partnership agreement with a State  
21 or county college pursuant to subsection a. of this section shall be  
22 paid not less than the prevailing wage rate for the worker's craft or  
23 trade as determined by the Commissioner of Labor and Workforce  
24 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)  
25 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

26 d. (1) All construction projects under a public-private partnership  
27 agreement entered into pursuant to this section shall contain a  
28 project labor agreement. The project labor agreement shall be  
29 subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and  
30 shall be in a manner that to the greatest extent possible enhances  
31 employment opportunities for individuals residing in the county of  
32 the project's location. Further, the general contractor, construction  
33 manager, design-build team, or subcontractor for a construction  
34 project proposed in accordance with this paragraph shall be  
35 registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-  
36 56.48 et seq.), and shall be classified by the Division of Property  
37 Management and Construction to perform work on a public-private  
38 partnership higher education project. All construction projects  
39 proposed in accordance with this paragraph shall be submitted to  
40 the New Jersey Economic Development Authority for its review  
41 and approval and, when practicable, are encouraged to adhere to the  
42 Leadership in Energy and Environmental Design Green Building  
43 Rating System as adopted by the United States Green Building  
44 Council.

45 (2) Where no public fund has been established for the financing  
46 of a public improvement, the chief financial officer of the public  
47 owner shall require the private entity for whom the public  
48 improvement is being made to post, or cause to be posted, a bond



1 guaranteeing prompt payment of moneys due to the contractor, his  
2 or her subcontractors and to all persons furnishing labor or  
3 materials to the contractor or his or her subcontractors in the  
4 prosecution of the work on the public improvement.

5 e. A general contractor, construction manager, design-build  
6 team, or subcontractor shall be registered pursuant to the provisions  
7 of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified  
8 by the Division of Property Management and Construction to  
9 perform work on a public-private partnership higher education  
10 project.

11 f. (1) On or before August 1, ~~2013~~ 2015, all projects proposed  
12 in accordance with this section shall be submitted to the New Jersey  
13 Economic Development Authority for ~~its~~ the authority's review  
14 and approval; except that in the case of projects proposed in  
15 accordance with paragraph (2) of subsection a. of this section, all  
16 projects shall be submitted on or before August 1, ~~2014~~ 2016.  
17 The projects are encouraged, when practicable, to adhere to the  
18 green building manual prepared by the Commissioner of  
19 Community Affairs pursuant to section 1 of P.L.2007, c.132  
20 (C.52:27D-130.6). Any application that is deemed to be incomplete  
21 on August 2, ~~2013~~ 2015, or on August 2, ~~2014~~ 2016 in the case  
22 of an application submitted pursuant to paragraph (2) of subsection  
23 a. of this section, shall not be eligible for consideration.

24 (2) (a) In order for an application to be complete and considered  
25 by the authority ~~it~~, the application shall include, but not be  
26 limited to: (i) a public-private partnership agreement between the  
27 State or county college and the private developer; (ii) a full  
28 description of the project, including a description of any agreement  
29 for the lease of a revenue-producing facility related to the project;  
30 (iii) the estimated costs and financial documentation for the project;  
31 (iv) a timetable for completion of the project extending no more  
32 than five years after consideration and approval; and (v) any other  
33 requirements that the authority deems appropriate or necessary.

34 (b) As part of the estimated costs and financial documentation  
35 for the project, the application shall contain a long-range  
36 maintenance plan and shall specify the expenditures that qualify as  
37 an appropriate investment in maintenance. ~~This~~ The long-range  
38 maintenance plan shall be approved by the authority pursuant to  
39 regulations promulgated by the authority that reflect national  
40 building maintenance standards and other appropriate building  
41 maintenance benchmarks. All contracts to implement a long-range  
42 maintenance plan pursuant to this paragraph shall contain a project  
43 labor agreement. The project labor agreement shall be subject to  
44 the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in  
45 a manner that to the greatest extent possible enhances employment  
46 opportunities for individuals residing in the county of the project's  
47 location.

1 (3) The authority shall review all completed applications, and  
2 request additional information as is needed to make a complete  
3 assessment of the project. No project shall be undertaken until final  
4 approval has been granted by the authority; provided, however, that  
5 the authority shall retain the right to revoke approval if it  
6 determines that the project has deviated from the plan submitted  
7 pursuant to paragraph (2) of this subsection.

8 (4) The authority may promulgate any rules and regulations  
9 necessary to implement this subsection, including provisions for  
10 fees to cover administrative costs.

11 Where no public fund has been established for the financing of a  
12 public improvement, the chief financial officer of the public owner  
13 shall require the private entity for whom the public improvement is  
14 being made to post, or cause to be posted, a bond guaranteeing  
15 prompt payment of moneys due to the contractor, his or her  
16 subcontractors and to all persons furnishing labor or materials to the  
17 contractor or his or her subcontractors in the prosecution of the  
18 work on the public improvement.

19 g. The provisions of P.L.2009, c.136 (C.52:18-42 et al.) shall  
20 not apply to any project carried out pursuant to this section.<sup>2</sup>

21 (cf: P.L.2012, c.42, s.1)

22

23 <sup>3</sup>[<sup>2</sup>29. (New section) Projects approved under P.L. ,  
24 c. (C. ) (pending before the Legislature as this bill) and  
25 projects approved under other legislatively established incentives  
26 programs managed by the authority now or in the past, shall  
27 specifically be exempted from Executive Order No. 215 signed on  
28 September 11, 1989.<sup>2</sup><sup>3</sup>

29

30 <sup>3</sup>[<sup>2</sup>30.]<sup>4</sup>[<sup>2</sup>29.<sup>3</sup>] 27.<sup>4</sup> (New section) The provisions of this act  
31 shall be severable, and if any of its provisions shall be held to be  
32 unconstitutional, the decision of the court shall not affect the  
33 validity of the remaining provisions of P.L. , c. (C. )  
34 (pending before the Legislature as this bill).<sup>2</sup>

35

36 <sup>1</sup>[21.] <sup>2</sup>[<sup>2</sup>22.<sup>1</sup>] <sup>3</sup>[<sup>3</sup>31.<sup>2</sup>] <sup>4</sup>[<sup>4</sup>30.<sup>3</sup>] 28.<sup>4</sup> This act shall take effect  
37 immediately.