

**ASSEMBLY, No. 3680**

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**STATE OF NEW JERSEY**

**215th LEGISLATURE**

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INTRODUCED JANUARY 14, 2013

**Sponsored by:**

**Assemblyman ALBERT COUTINHO**

**District 29 (Essex)**

**Assemblyman TROY SINGLETON**

**District 7 (Burlington)**

**Assemblywoman BONNIE WATSON COLEMAN**

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**Assemblyman JON M. BRAMNICK**

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

**Assemblyman ANTHONY M. BUCCO**

**District 25 (Morris and Somerset)**

**Co-Sponsored by:**

**Assemblymen Burzichelli, Coughlin, Assemblywoman Stender,  
Assemblyman Fuentes, Assemblywomen Mosquera, Riley, Lampitt and  
N.Munoz**

**SYNOPSIS**

“The New Jersey Economic Opportunity Act of 2013”; provides financial incentives for expansion or conversion of certain redevelopment projects.

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 3/15/2013)

1 AN ACT concerning financial incentives for the expansion or  
2 conversion of certain redevelopment projects and amending  
3 various parts of the statutory law.

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

7  
8 1. (New section) This act shall be known and may be cited as  
9 the “New Jersey Economic Opportunity Act of 2013.”  
10

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

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

33 b. (1) To the extent that an application under P.L.1996, c.25  
34 (C.34:1B-112 et seq.) has been received by the authority prior to the  
35 effective date of the “New Jersey Economic Opportunity Act of  
36 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
37 bill), and, to the extent that there remains sufficient financial  
38 authorization for the grant of tax credits, the authority is authorized  
39 to consider such application in the same manner as had previously  
40 been provided and to make a grant of tax credits to eligible  
41 applicants, provided that the authority shall take final action on  
42 such grant of tax credits no later than 180 calendar days after the  
43 effective date of the “New Jersey Economic Opportunity Act of  
44 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
45 bill).

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

Matter underlined thus is new matter.

1       (2) A business shall apply for a grant of tax credits under the  
2 Business Retention and Relocation Assistance Grant Program prior  
3 to the effective date of the “New Jersey Economic Opportunity Act  
4 of 2013,” P.L. , c. (C. ) (pending before the Legislature as  
5 this bill), and shall submit its documentation for approval of a grant  
6 of tax credits no later than July 1, 2013.

7       (3) If any business has submitted an application under P.L.1996,  
8 c.25 (C.34:1B-112 et seq.) and such application has not been  
9 approved for any reason, such lack of approval shall not serve to  
10 prejudice in any way the consideration of any new application as  
11 may be submitted by a business for the provision of incentives  
12 offered pursuant to the “New Jersey Economic Opportunity Act of  
13 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
14 bill).

15 (cf: P.L.2010, c.123, s.2)

16  
17       3. Section 4 of P.L.1996, c.26 (C.34:1B-127) is amended to  
18 read as follows:

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

21       (1) Will create at least 25 eligible positions in the base years; or

22       (2) Will create at least 10 eligible positions in the base years if  
23 the business is an advanced computing company, an advanced  
24 materials company, a biotechnology company, an electronic device  
25 technology company, an environmental technology company, or a  
26 medical device technology company.

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

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

43       d. (1) To the extent that an application under P.L.1996, c.26  
44 (C.34:1B-124 et seq.) has been received by the authority prior to the  
45 effective date of the “New Jersey Economic Opportunity Act of  
46 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
47 bill), and, to the extent that there remains sufficient financial  
48 authorization for the grant, the authority is authorized to consider

1 such application in the same manner as had previously been  
2 provided and to make a grant to eligible applicants, provided that  
3 the authority shall take final action on such grant no later than 180  
4 calendar days after the effective date of the “New Jersey Economic  
5 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
6 Legislature as this bill).

7 (2) A business shall apply for a grant under the Business  
8 Employment Incentive Program prior to the effective date of the  
9 “New Jersey Economic Opportunity Act of 2013,”  
10 P.L. , c. (C. ) (pending before the Legislature as this bill), and  
11 shall submit its documentation for approval of a grant no later than  
12 July 1, 2013.

13 (3) If any business has submitted an application under P.L.1996,  
14 c.26 (C.34:1B-124 et seq.) and such application has not been  
15 approved for any reason, such lack of approval shall not serve to  
16 prejudice in any way the consideration of any new application as  
17 may be submitted by a business for the provision of incentives  
18 offered pursuant to the “New Jersey Economic Opportunity Act of  
19 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
20 bill).

21 (cf: P.L.2003, c.166, s.2)

22

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

25 3. a. (1) A business, upon application to and approval from the  
26 authority, shall be allowed a credit of 100 percent of its capital  
27 investment, made after the effective date of P.L.2007, c.346  
28 (C.34:1B-207 et seq.) but prior to its submission of documentation  
29 pursuant to subsection c. of this section, in a qualified business  
30 facility within an eligible municipality, pursuant to the restrictions  
31 and requirements of this section. To be eligible for any tax credits  
32 authorized under this section, a business shall demonstrate to the  
33 authority, at the time of application, that the State's financial  
34 support of the proposed capital investment in a qualified business  
35 facility will yield a net positive benefit to both the State and the  
36 eligible municipality. The value of all credits approved by the  
37 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall  
38 not exceed \$1,750,000,000.

39 (2) A business, other than a tenant eligible pursuant to  
40 paragraph (3) of this subsection, shall make or acquire capital  
41 investments totaling not less than \$50,000,000 in a qualified  
42 business facility, at which the business shall employ not fewer than  
43 250 full-time employees to be eligible for a credit under this  
44 section. A business that acquires a qualified business facility shall  
45 also be deemed to have acquired the capital investment made or  
46 acquired by the seller.

47 (3) A business that is a tenant in a qualified business facility, the  
48 owner of which has made or acquired capital investments in the

1 facility totaling not less than \$50,000,000, shall occupy a leased  
2 area of the qualified business facility that represents at least  
3 \$17,500,000 of the capital investment in the facility at which the  
4 tenant business and up to two other tenants in the qualified business  
5 facility shall employ not fewer than 250 full-time employees in the  
6 aggregate to be eligible for a credit under this section. The amount  
7 of capital investment in a facility that a leased area represents shall  
8 be equal to that percentage of the owner's total capital investment in  
9 the facility that the percentage of net leasable area leased by the  
10 tenant is of the total net leasable area of the qualified business  
11 facility. Capital investments made by a tenant shall be deemed to  
12 be included in the calculation of the capital investment made or  
13 acquired by the owner, but only to the extent necessary to meet the  
14 owner's minimum capital investment of \$50,000,000. Capital  
15 investments made by a tenant and not allocated to meet the owner's  
16 minimum capital investment threshold of \$50,000,000 shall be  
17 added to the amount of capital investment represented by the  
18 tenant's leased area in the qualified business facility.

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

32 (5) Full-time employment for an accounting or privilege period  
33 shall be determined as the average of the monthly full-time  
34 employment for the period.

35 (6) The capital investment of the owner of a qualified business  
36 facility is that percentage of the capital investment made or  
37 acquired by the owner of the building that the percentage of net  
38 leasable area of the qualified business facility not leased to tenants  
39 is of the total net leasable area of the qualified business facility.

40 (7) A business shall be allowed a tax credit of 100 percent of its  
41 capital investment, made after the effective date of P.L.2011, c.89  
42 but prior to its submission of documentation pursuant to subsection  
43 c. of this section, in a qualified business facility that is part of a  
44 mixed use project, provided that (a) the qualified business facility  
45 represents at least \$17,500,000 of the total capital investment in the  
46 mixed use project, (b) the business employs not fewer than 250 full-  
47 time employees in the qualified business facility, and (c) the total  
48 capital investment in the mixed use project of which the qualified

1 business facility is a part is not less than \$50,000,000. The  
2 allowance of credits under this paragraph shall be subject to the  
3 restrictions and requirements, to the extent that those are not  
4 inconsistent with the provisions of this paragraph, set forth in  
5 paragraphs (1) through (6) of this subsection, including but not  
6 limited to the requirement that the business shall demonstrate to the  
7 authority, at the time of application, that the State's financial  
8 support of the proposed capital investment in a qualified business  
9 facility will yield a net positive benefit to both the State and the  
10 eligible municipality.

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

44 b. (1) To the extent that applications under P.L.2007, c.346  
45 (C.34:1B-207 et seq.) have been received by the authority prior to  
46 the effective date of the "New Jersey Economic Opportunity Act of  
47 2013," P.L. , c. (C. ) (pending before the Legislature as this  
48 bill), and, to the extent that there remains sufficient financial

1 authorization for the award of a tax credit, the authority is  
2 authorized to consider such applications in the same manner as had  
3 previously been provided and to make awards of tax credits to  
4 eligible applicants, provided that the authority must take final  
5 action on such awards not later than 180 calendar days after the  
6 effective date of the “New Jersey Economic Opportunity Act of  
7 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
8 bill).

9 (2) A business shall apply for the credit under the “Urban  
10 Transit Hub Tax Credit Act,” P.L.2007, c.346 (C.34:1B-207 et seq.)  
11 prior to [July 1, 2014] the effective date of P.L. , c. (C. )  
12 (pending before the Legislature as this bill), and shall submit its  
13 documentation for approval of its credit amount no later than [July  
14 28, 2017] April 26, 2017.

15 (3) If any business has submitted an application under P.L.2007,  
16 c.346 (C.34:1B-207 et seq.) and such application has not been  
17 approved for any reason, such lack of approval shall not serve to  
18 prejudice in any way the consideration of any new application as  
19 may be submitted by such project for the provision of incentives  
20 offered pursuant to the “New Jersey Economic Opportunity Act of  
21 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
22 bill).

23 c. (1) The amount of credit allowed shall, except as otherwise  
24 provided, be equal to the capital investment made by the business,  
25 or the capital investment represented by the business' leased area, or  
26 area owned by the business as a condominium, and shall be taken  
27 over a 10-year period, at the rate of one-tenth of the total amount of  
28 the business' credit for each tax accounting or privilege period of  
29 the business, beginning with the tax period in which the business is  
30 first certified by the authority as having met the investment capital  
31 and employment qualifications, subject to any reduction or  
32 disqualification as provided by subsection d. of this section as  
33 determined by annual review by the authority. In conducting its  
34 annual review, the authority may require a business to submit any  
35 information determined by the authority to be necessary and  
36 relevant to its review.

37 The credit amount for any tax period ending after July 28, 2017  
38 during which the documentation of a business' credit amount  
39 remains uncertified shall be forfeited, although credit amounts for  
40 the remainder of the years of the 10-year credit period shall remain  
41 available to it.

42 The credit amount that may be taken for a tax period of the  
43 business that exceeds the final liabilities of the business for the tax  
44 period may be carried forward for use by the business in the next 20  
45 successive tax periods, and shall expire thereafter, provided that the  
46 value of all credits approved by the authority against tax liabilities  
47 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year  
48 shall not exceed \$150,000,000.

1       The amount of credit allowed for a tax period to a business that  
2 is a tenant in a qualified business facility shall not exceed the  
3 business' total lease payments for occupancy of the qualified  
4 business facility for the tax period.

5       (2) A business that is a partnership shall not be allowed a credit  
6 under this section directly, but the amount of credit of an owner of a  
7 business shall be determined by allocating to each owner of the  
8 partnership that proportion of the credit of the business that is equal  
9 to the owner of the partnership's share, whether or not distributed,  
10 of the total distributive income or gain of the partnership for its tax  
11 period ending within or with the owner's tax period, or that  
12 proportion that is allocated by an agreement, if any, among the  
13 owners of the partnership that has been provided to the Director of  
14 the Division of Taxation in the Department of the Treasury by such  
15 time and accompanied by such additional information as the  
16 director may require.

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

22       d. (1) If, in any tax period, fewer than 200 full-time employees  
23 of the business at the qualified business facility are employed in  
24 new full-time positions, the amount of the credit otherwise  
25 determined pursuant to final calculation of the award of tax credits  
26 pursuant to subsection c. of this section shall be reduced by 20  
27 percent for that tax period and each subsequent tax period until the  
28 first period for which documentation demonstrating the restoration  
29 of the 200 full-time employees employed in new full-time positions  
30 at the qualified business facility has been reviewed and approved by  
31 the authority, for which tax period and each subsequent tax period  
32 the full amount of the credit shall be allowed; provided, however,  
33 that for businesses applying before January 1, 2010, there shall be  
34 no reduction if a business relocates to an urban transit hub from  
35 another location or other locations in the same municipality. For  
36 the purposes of this paragraph, a "new full-time position" means a  
37 position created by the business at the qualified business facility  
38 that did not previously exist in this State.

39       (2) If, in any tax period, the business reduces the total number  
40 of full-time employees in its Statewide workforce by more than 20  
41 percent from the number of full-time employees in its Statewide  
42 workforce in the last tax accounting or privilege period prior to the  
43 credit amount approval under subsection a. of this section, then the  
44 business shall forfeit its credit amount for that tax period and each  
45 subsequent tax period, until the first tax period for which  
46 documentation demonstrating the restoration of the business'  
47 Statewide workforce to the threshold levels required by this  
48 paragraph has been reviewed and approved by the authority, for



1    which tax period and each subsequent tax period the full amount of  
2    the credit shall be allowed.

3       (3) If, in any tax period, (a) the number of full-time employees  
4    employed by the business at the qualified business facility located  
5    in an urban transit hub within an eligible municipality drops below  
6    250, or (b) the number of full-time employees, who are not the  
7    subject of intra-State job transfers, pursuant to paragraph (8) of  
8    subsection a. of this section, employed by the business at any other  
9    business facility in the State, whether or not located in an urban  
10   transit hub within an eligible municipality, drops by more than 20  
11   percent from the number of full-time employees in its workforce in  
12   the last tax accounting or privilege period prior to the credit amount  
13   approval under this section, then the business shall forfeit its credit  
14   amount for that tax period and each subsequent tax period, until the  
15   first tax period for which documentation demonstrating the  
16   restoration of the number of full-time employees employed by the  
17   business at the qualified business facility to 250 or an increase  
18   above the 20 percent reduction has been reviewed and approved by  
19   the authority, for which tax period and each subsequent tax period  
20   the full amount of the credit shall be allowed.

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

27       (ii) If a tenant subleases its tenancy in whole or in part during  
28    the 10-year eligibility period the new tenant shall not acquire the  
29    credit of the sublessor, and the sublessor tenant shall forfeit all  
30    credits for the tax period of its sublease and all subsequent tax  
31    periods.

32       e. (1) The Executive Director of the New Jersey Economic  
33    Development Authority, in consultation with the Director of the  
34    Division of Taxation in the Department of the Treasury, shall adopt  
35    rules in accordance with the "Administrative Procedure Act,"  
36    P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement  
37    this act, including but not limited to: examples of and the  
38    determination of capital investment; the enumeration of eligible  
39    municipalities; specific delineation of urban transit hubs; the  
40    determination of the limits, if any, on the expense or type of  
41    furnishings that may constitute capital improvements; the  
42    promulgation of procedures and forms necessary to apply for a  
43    credit, including the enumeration of the certification procedures and  
44    allocation of tax credits for different phases of a qualified business  
45    facility or mixed use project; and provisions for credit applicants to  
46    be charged an initial application fee, and ongoing service fees, to  
47    cover the administrative costs related to the credit.

48       (2) Through regulation, the Economic Development Authority

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

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

8  
9 5. Section 33 of P.L.2009, c.346 (C.34:1B-209.1) is amended  
10 to read as follows:

11 33. A business may apply to the Director of the Division of  
12 Taxation in the Department of the Treasury and the executive  
13 director of the authority for a tax credit transfer certificate, covering  
14 one or more years, in lieu of the business being allowed any amount  
15 of the credit against the tax liability of the business. The tax credit  
16 transfer certificate, upon receipt thereof by the business from the  
17 director and the executive director of the authority, may be sold or  
18 assigned, in full or in part, to any other person that may have a tax  
19 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
20 pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and  
21 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15),  
22 or pursuant to N.J.S.17B:23-5. The certificate provided to the  
23 business shall include a statement waiving the business's right to  
24 claim that amount of the credit against the taxes that the business  
25 has elected to sell or assign. The sale or assignment of any amount  
26 of a tax credit transfer certificate allowed under this section shall  
27 not be exchanged for consideration received by the business of less  
28 than 75 percent of the transferred credit amount before considering  
29 any further discounting to present value which shall be permitted.  
30 Any amount of a tax credit transfer certificate used by a purchaser  
31 or assignee against a tax liability shall be subject to the same  
32 limitations and conditions that apply to the use of the credit by the  
33 business that originally applied for and was allowed the credit.

34 (cf: P.L.2009, c.90, s.33)

35  
36 6. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to  
37 read as follows:

38 2. As used in **【this act】** P.L.2011, c.149 (C.34:1B-242 et seq.):

39 "Affiliate" means an entity that directly or indirectly controls, is  
40 under common control with, or is controlled by the business.  
41 Control exists in all cases in which the entity is a member of a  
42 controlled group of corporations as defined pursuant to section 1563  
43 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the  
44 entity is an organization in a group of organizations under common  
45 control as defined pursuant to subsection (b) or (c) of section 414 of  
46 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer  
47 may establish by clear and convincing evidence, as determined by  
48 the Director of the Division of Taxation in the Department of the

1 Treasury, that control exists in situations involving lesser  
2 percentages of ownership than required by those statutes. An  
3 affiliate of a business may contribute to meeting either the qualified  
4 investment or full-time employee requirements of a business that  
5 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-  
6 209).

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

9 "Business" means an applicant proposing to own or lease  
10 premises in a qualified business facility that is a corporation that is  
11 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162  
12 (C.54:10A-5), a corporation that is subject to the tax imposed  
13 pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and  
14 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or  
15 N.J.S.17B:23-5, or is a partnership, an S corporation, **[or]** a limited  
16 liability corporation, or a non-profit corporation. A business shall  
17 include an affiliate of the business if that business applies for a  
18 credit based upon any capital investment made by or full-time  
19 employees of an affiliate.

20 "Capital investment" in a qualified business facility means  
21 expenses by a business or any affiliate of the business incurred after  
22 application **[**, but before the end of the tenth year after, the effective  
23 date of P.L.2011, c.149 (C.34:1B-242 et al.)**]** for: a. site preparation  
24 and construction, repair, renovation, improvement, equipping, or  
25 furnishing on real property or of a building, structure, facility, or  
26 improvement to real property; and b. obtaining and installing  
27 furnishings and machinery, apparatus, or equipment for the  
28 operation of a business on real property or in a building, structure,  
29 facility, or improvement to real property. In addition to the  
30 foregoing, if a business acquires or leases premises in a qualified  
31 business facility, the capital investment made or acquired by the  
32 seller or owner, as the case may be, if pertaining primarily to the  
33 premises, shall be considered a capital investment by the business  
34 and, if pertaining generally to the qualified business facility, shall  
35 be allocated to each premises in the qualified business facility on  
36 the basis of the gross leasable area of each premises in relation to  
37 the total gross leasable in the facility. The capital investment  
38 described herein may include any capital investment made or  
39 acquired prior to the date of application by the business so long as  
40 the amount of capital investment made or acquired by the business,  
41 any affiliate of the business, or any owner after the date of  
42 application equals at least 50 percent of the amount of capital  
43 investment made or acquired prior to the date of application.

44 "Deep poverty pocket" means any area comprised of three or  
45 more contiguous census tracts determined by the United States  
46 Census Bureau as having, at the time of an application for a project,  
47 an average federal poverty level of 20 percent or more.

1       “Disaster recovery project” means a redevelopment project  
2 located on property that has been damaged or destroyed as a result  
3 of a federally-declared disaster.

4       “Distressed municipality” means a municipality, other than a  
5 municipality qualifying under section 2 of P.L.2007, c.346  
6 (C.34:1B-208), a municipality qualified to receive assistance under  
7 P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the  
8 supervision of the Local Finance Board pursuant to the provisions  
9 of the "Local Government Supervision Act (1947)," P.L.1947, c.151  
10 (C.52:27BB-1 et seq.), or a municipality identified by the Director  
11 of the Division of Local Government Services in the Department of  
12 Community Affairs to be facing serious fiscal distress.

13       “Eligibility period” means the period in which a business may  
14 claim a tax credit under the Grow New Jersey Assistance Program,  
15 beginning with the tax period in which the authority accepts  
16 certification of the business that it has met the capital investment  
17 and employment requirements of the Grow New Jersey Assistance  
18 Program and extending thereafter for a period of not more than ten  
19 years, with the duration to be determined solely at the discretion of  
20 the applicant.

21       "Eligible position" means a full-time [employee] position  
22 [retained or created by] in a business in this State [for which a  
23 business provides employee health benefits under a group health  
24 plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),  
25 a health benefits plan as defined under section 1 of P.L.1992, c.162  
26 (C.17B:27A-17), or a policy or contract of health insurance  
27 covering more than one person issued pursuant to Article 2 of  
28 chapter 27 of Title 17B of the New Jersey Statutes] which the  
29 business either has filled with a new full-time employee or a  
30 retained full-time employee.

31       "Full-time employee" means a person employed by the business  
32 for consideration for at least 35 hours a week, or who renders any  
33 other standard of service generally accepted by custom or practice  
34 as full-time employment, or a person who is employed by a  
35 professional employer organization pursuant to an employee leasing  
36 agreement between the business and the professional employer  
37 organization, in accordance with P.L.2001, c.260 (C.34:8-67 et  
38 seq.) for at least 35 hours a week, or who renders any other standard  
39 of service generally accepted by custom or practice as full-time  
40 employment, and whose wages are subject to withholding as  
41 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
42 et seq. or [an employee] a person who is a resident of another State  
43 but whose income is not subject to the "New Jersey Gross Income  
44 Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business  
45 who works for the partnership for at least 35 hours a week, or who  
46 renders any other standard of service generally accepted by custom  
47 or practice as full-time employment, and whose distributive share of  
48 income, gain, loss, or deduction, or whose guaranteed payments, or

1 any combination thereof, is subject to the payment of estimated  
2 taxes, as provided in the "New Jersey Gross Income Tax Act,"  
3 N.J.S.54A:1-1 et seq., with a person to be provided, by the business,  
4 with employee health benefits under a group health plan as defined  
5 under section 14 of P.L.1997, c.146 (C.17B:27-54), a health  
6 benefits plan as defined under section 1 of P.L.1992, c.162  
7 (C.17B:27A-17), or a policy or contract of health insurance  
8 covering more than one person issued pursuant to Article 2 of  
9 chapter 27 of Title 17B of the New Jersey Statutes. With respect to  
10 the maritime industry, a standard of service generally accepted by  
11 custom or practice as full-time employment shall include, but not be  
12 limited to, employees that have been hired by way of a labor union  
13 hiring hall or its equivalent. For purposes of the foregoing  
14 sentence, 35 hours of employment per week at a qualified business  
15 facility shall constitute one "full-time employee," regardless of  
16 whether or not the hours of work were performed by one or more  
17 persons. Also in respect to the maritime industry, the requirement  
18 that employee health benefits are to be provided shall be deemed to  
19 be satisfied if such benefits are provided in accordance with  
20 industry practice by a third party obligated to provide such benefits  
21 pursuant to a collective bargaining agreement. "Full-time  
22 employee" shall not include any person who works as an  
23 independent contractor or on a consulting basis for the business.

24 "Full-time job" means an eligible position which exists within  
25 the business at the qualified business facility that is either a new  
26 full-time job or a retained full-time job.

27 "Incentive agreement" means the contract between the business  
28 and the authority, which sets forth the terms and conditions under  
29 which the business shall be eligible to receive the incentives  
30 authorized pursuant to the "New Jersey Economic Opportunity Act  
31 of 2013," P.L. , c. (C. ) (pending before the Legislature as  
32 this bill).

33 "Incentive effective date" means the date, after approval of an  
34 application for incentives from the Grow New Jersey Assistance  
35 Program by the authority, on which the business has completed all  
36 of the actions required in order to qualify for the commencement of  
37 its receipt of those incentives, with such completion evidenced by  
38 the issuance of a certification to that effect by the authority.

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

46 "New full-time employee" means a full-time employee who is  
47 employed by the business in an eligible position that did not exist

1 prior to the date on which the business submitted an application to  
2 the Grow New Jersey Assistance Program.

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

8 "Other eligible areas" means any qualified incentive area other  
9 than a site in an urban transit hub municipality, a site in a distressed  
10 municipality, or a site in other priority areas.

11 "Other priority areas" means any area, other than a site in an  
12 urban transit hub municipality or a site in a distressed municipality,  
13 designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as  
14 Planning Area 1 (Metropolitan), Planning Area 2 (Suburban) as  
15 well as any location in the State that is a deep poverty pocket, a  
16 designated center or a designated growth center in an endorsed plan,  
17 the site of a proposed qualified incubator facility, transit oriented  
18 development, disaster recovery project, or tourism destination  
19 project, or any federally owned land approved for closure under a  
20 federal Base Realignment Closing Commission action, or any  
21 vacant commercial building having over 400,000 square feet of  
22 office, laboratory, or industrial space available for occupancy for a  
23 period of over one year or any site that has been negatively  
24 impacted by the approval of a "qualified business facility," as  
25 defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

26 "Owner" means an entity that owns all or part of a qualified  
27 business facility in which a business proposes to lease or purchase  
28 premises, subject to the award of tax credits under the Grow New  
29 Jersey Assistance Program.

30 "Partnership" means an entity classified as a partnership for  
31 federal income tax purposes.

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

35 "Program" means the "Grow New Jersey Assistance Program"  
36 established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244),  
37 as amended by the "New Jersey Economic Opportunity Act of  
38 2013," P.L. , c. (C. ) (pending before the Legislature as this  
39 bill).

40 "Qualified business facility" means any building, complex of  
41 buildings or structural components of buildings, and all machinery  
42 and equipment located within a qualified incentive area, used in  
43 connection with the operation of a business.

44 "Qualified incentive area" means **[an]** any area designated  
45 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning  
46 Area 1 (Metropolitan), Planning Area 2 (Suburban), **[or any urban,**  
47 regional, or town] Planning Area 3 (Fringe Planning Area), or  
48 Planning Area 4A (Rural Planning Area), a designated center under

1 the State Development and Redevelopment Plan [; an area zoned  
2 for development pursuant to] ; or a designated growth center in an  
3 endorsed plan until June 30, 2013, or until the State Planning  
4 Commission revises and readopts New Jersey's State Strategic Plan  
5 and adopts regulations to refine this definition as it pertains to  
6 Statewide planning areas, whichever is later; a smart growth area  
7 and planning area designated in a master plan adopted by the New  
8 Jersey Meadowlands Commission pursuant to subsection (i) of  
9 section 6 of P.L.1968, c.404 (C.13:17-6) [or subject to a  
10 redevelopment plan adopted by the New Jersey Meadowlands  
11 Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-  
12 21); any land owned by the New Jersey Sports and Exposition  
13 Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et  
14 seq.), within the boundaries of the Hackensack Meadowlands  
15 District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4); a  
16 pinelands regional growth area, a pinelands town management area,  
17 a pinelands village, or a military and federal installation area  
18 established pursuant to the pinelands comprehensive management  
19 plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); an  
20 area designated for development, redevelopment, or economic  
21 growth within the Highlands Region; federally owned land  
22 approved for closure under any federal Base Closure and  
23 Realignment Commission action]; a regional growth area, village,  
24 and town, designated in the comprehensive management plan  
25 prepared and adopted by the Pinelands Commission pursuant to  
26 section 7 of the "Pinelands Protection Act," P.L.1979, c.111  
27 (C.13:18A-8); the planning area of the Highlands Region as defined  
28 in section 3 of the "Highlands Water Protection and Planning Act,"  
29 P.L.2004, c.120 (C.13:20-3), and any Highlands center designated  
30 by the Highlands Water Protection and Planning Council,  
31 established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an  
32 urban enterprise zone designated pursuant to P.L.1983, c.303  
33 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an  
34 area determined to be in need of redevelopment pursuant to sections  
35 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) and as  
36 approved by the Department of Community Affairs; or similar area  
37 designated by the Department of Environmental Protection.  
38 "Qualified incentive area" shall not include an area designated  
39 pursuant to the State Development and Redevelopment Plan  
40 adopted, as of the effective date of P.L.2008, c.78, pursuant to  
41 P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 4B  
42 (Rural/Environmentally Sensitive) or Planning Area 5  
43 (Environmentally Sensitive), except for any area within Planning  
44 Area 4B or Planning Area 5 that is a deep poverty pocket, a  
45 designated center or a designated growth center in an endorsed plan,  
46 the site of a qualified incubator facility, transit oriented  
47 development, disaster recovery project, tourism destination project,  
48 or any federally owned land approved for closure under a federal

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

8 "Qualified incubator facility" means a commercial building  
9 having over 100,000 square feet of office, laboratory, or industrial  
10 space with at least 75 percent of its gross leasable area restricted to  
11 use by technology startup companies during the period established  
12 pursuant to section 4 of P.L.2011, c.149 (C.34:1B-245).

13 "Retained full-time employee" means a full-time employee who,  
14 prior to the submission of an application to the Grow New Jersey  
15 Assistance Program, was working in New Jersey but which, because  
16 of a potential relocation by the business, is at risk of being lost to  
17 another state or country.

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

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

30 "Tourism destination project" means a redevelopment project  
31 that will be among the most visited privately owned or operated  
32 tourism or recreation sites in the State as determined at the  
33 discretion of the authority.

34 "Transit oriented development" means a project located within a  
35 1/2-mile radius surrounding the mid-point of a New Jersey Transit  
36 Corporation, Port Authority Transit Corporation, or Port Authority  
37 Trans-Hudson Corporation rail, bus, or ferry station platform area,  
38 including all light rail stations.

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

48 (cf: PL.2011, c.149, s.2)



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

3       3. a. The Grow New Jersey Assistance Program is hereby  
4 established as a program under the jurisdiction of the New Jersey  
5 Economic Development Authority and shall be administered by the  
6 authority. The purpose of the program is to encourage economic  
7 development and job creation and to preserve jobs that currently  
8 exist in New Jersey but which are in danger of being relocated  
9 outside of the State. To implement this purpose, ~~and to the extent~~  
10 that funding for the program is available, the program may provide  
11 tax credits to eligible businesses for a term not to exceed 10 years.  
12 To be eligible for any tax credits pursuant to P.L.2011, c.149  
13 (C.34:1B-242 et al.), as amended by the “New Jersey Economic  
14 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
15 Legislature as this bill), a business's chief executive officer or  
16 equivalent officer shall demonstrate to the authority, at the time of  
17 application, that: (1) the business , an affiliate, or its owner, will  
18 make, acquire, or lease a capital investment ~~of at least~~  
19 ~~\$20,000,000~~ equal to, or greater than, the applicable amount set  
20 forth in subsection b. of this section at a qualified business facility  
21 at which it will: (a) employ ~~at least 100~~ full-time employees in  
22 retained full-time jobs in excess of the applicable number set forth  
23 in subsection c. of this section~~, or~~ ; (b) create ~~at least 100~~ and  
24 employ new full-time jobs ~~in an industry identified by the~~  
25 ~~authority as desirable for the State to maintain or attract; (2)~~ in an  
26 amount equal to or greater than the applicable number set forth in  
27 subsection c. of this section; or (c) employ a combination of  
28 retained and new full-time jobs in an amount equal to or greater  
29 than the applicable number set forth in subsection c. of this section;  
30 (2) the qualified business facility shall be constructed in accordance  
31 with the minimum environmental and sustainability standards  
32 established pursuant to the “New Jersey Economic Opportunity Act  
33 of 2013,” P.L. , c. (C. ) (pending before the Legislature as  
34 this bill); (3) the capital investment resultant from the award of tax  
35 credits and the resultant retention and creation of eligible positions  
36 will yield a net positive benefit to the State; and, except as provided  
37 in subsection [d.] f. of this section, [(3)] (4) the award of tax  
38 credits will be a material factor in the business's decision to create  
39 or retain the minimum number of full-time jobs for eligibility under  
40 the program.

41       b. The minimum capital investment required to be eligible  
42 under this program shall be as follows: (1) for the rehabilitation of  
43 an existing industrial premises for continued industrial use by the  
44 business, a minimum investment of \$40 per square foot of gross  
45 leasable area; (2) for the new construction of an industrial premises  
46 for industrial use by the business, a minimum investment of \$80 per  
47 square foot of gross leasable area; (3) for the rehabilitation of an

1 existing non-industrial premises for continued non-industrial use by  
2 the business, a minimum investment of \$80 per square foot of gross  
3 leasable area; and (4) for the new construction of a non-industrial  
4 premises for non-industrial use by the business, a minimum  
5 investment of \$160 per square foot of gross leasable area.

6 c. The minimum number of full-time employees required to be  
7 eligible under this program shall be as follows: (1) for a business  
8 that is a technology startup company, a minimum of ten (10) full-  
9 time employees; (2) for a business engaged primarily in  
10 manufacturing, a minimum of 25 full-time employees; (3) for a  
11 business engaged primarily in a targeted industry other than any  
12 industry included in paragraphs (1) or (2) of this subsection, a  
13 minimum of 35 full-time employees; and (4) for any other business,  
14 a minimum of 50 full-time employees.

15 d. To assist the authority in determining whether a proposed  
16 capital investment will yield a net positive benefit, the business's  
17 chief executive officer, or equivalent officer, shall submit a  
18 certification to the authority indicating that any [existing] retained  
19 full-time jobs are at risk of leaving the State and the date or dates at  
20 which it is expected that such retained full-time jobs would leave  
21 the State, that any projected creation of new full-time jobs would  
22 not occur but for the provision of tax credits under the program, and  
23 that the business's chief executive officer, or equivalent officer, has  
24 reviewed the information submitted to the authority and that the  
25 representations contained therein are accurate. In the event that this  
26 certification by the business's chief executive officer, or equivalent  
27 officer, is found to be willfully false, the authority may revoke any  
28 award of tax credits in their entirety, which revocation shall be in  
29 addition to any other criminal or civil penalties that the business  
30 and the officer may be subject to. When considering an application  
31 involving intra-State job transfers, the authority shall require the  
32 business to submit the following information as part of its  
33 application: a full economic analysis of all locations under  
34 consideration by the business; all lease agreements, ownership  
35 documents, or substantially similar documentation for the business's  
36 current in-State locations; and all lease agreements, ownership  
37 documents, or substantially similar documentation for the potential  
38 out-of-State location alternatives, to the extent they exist. Based on  
39 this information, and any other information deemed relevant by the  
40 authority, the authority shall independently verify and confirm, by  
41 way of making a factual finding by separate vote of the authority's  
42 board, the business's assertion that the jobs are actually at risk of  
43 leaving the State and as to the date or dates at which the authority  
44 expects that such jobs would actually leave the State, before a  
45 business may be awarded any tax credits under this section.

46 [c.] e. A project that consists solely of point-of-final-purchase  
47 retail facilities shall not be eligible for a grant of tax credits. If a  
48 project consists of both point-of-final-purchase retail facilities and

1 non-retail facilities, only the portion of the project consisting of  
2 non-retail facilities shall be eligible for a grant of tax credits. If a  
3 warehouse facility is part of a point-of-final-purchase retail facility  
4 and supplies only that facility, the warehouse facility shall not be  
5 eligible for a grant of tax credits. For the purposes of this section,  
6 catalog distribution centers shall not be considered point-of-final-  
7 purchase retail facilities.

8 **[d.] f.** The authority may determine as eligible for tax credits  
9 under the program any business that is required to respond to a  
10 request for proposals and to fulfill a contract with the federal  
11 government although the business's chief executive officer or  
12 equivalent officer has not demonstrated to the authority that the  
13 award of tax credits will be a material factor in the business's  
14 decision to retain **[at least 100]** the minimum number of full-time  
15 jobs, as otherwise required by **[paragraph (3) of subsection a. of]**  
16 this section. The authority may, in its discretion, consider the  
17 economic benefit of the retained jobs servicing the contract in  
18 conducting a net benefit analysis required by paragraph **[(2)] 3** of  
19 subsection a. of this section. For the purposes of this subsection,  
20 "retained jobs" includes jobs that are at risk of being eliminated.  
21 Applications to the authority for eligibility under the program  
22 pursuant to the criteria set forth in this subsection shall be  
23 completed by **[March]** July 31, [2012] 2013. Submission of a  
24 proposal to the federal government prior to authority approval shall  
25 not disqualify a business from the program.  
26 (cf: PL.2011, c.149, s.3)

27  
28 8. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to  
29 read as follows:

30 4. The authority shall require an eligible business to enter into  
31 an incentive agreement prior to the issuance of tax credits. The  
32 incentive agreement shall include, but shall not be limited to, the  
33 following:

34 a. A detailed description of the proposed project which will  
35 result in job creation or retention, and the number of full-time  
36 **[employees]** jobs that will be provided.

37 b. The term of the tax credits, and the first year for which the  
38 tax credits may be claimed.

39 c. Personnel information that will enable the authority to  
40 administer the program.

41 d. A requirement that the applicant maintain the project at a  
42 location in New Jersey for a period of at least 1.5 times the  
43 **[number of years]** duration of the **[term of the tax credits]**  
44 eligibility period, with at least the minimum number of full-time  
45 employees as required by **[section 6 of P.L.2011, c.149 (C.34:1B-**  
46 **247)]** this program and a provision to permit the authority to  
47 recapture all or part of any tax **[credit]** credits awarded, at its

1 discretion, if the business does not remain **【at the site】** in  
2 compliance with this provision for the required term, with such  
3 permitted recapture not to exceed the portion of the tax credits as  
4 were awarded for periods when the business was not in compliance  
5 with this provision.

6 e. A method for the business to report annually to the authority  
7 the number of full-time employees for which the tax credits are to  
8 be made.

9 f. A provision permitting an audit of the payroll records of the  
10 business from time to time, as the authority deems necessary.

11 g. A provision which permits the authority to amend the  
12 agreement.

13 h. A provision establishing the conditions under which the  
14 agreement may be terminated **【and awarded tax credits are**  
15 **recaptured, in whole or in part, by the authority at its discretion】** .

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

17  
18 9. Section 5 of P.L.2011, c.149 (C.34:1B-246) is amended to  
19 read as follows:

20 5. a. The **【value】** initial amount of **【each】** tax credit for an  
21 eligible business **【shall be equal to \$5,000 per year for a period of**  
22 **ten years】** for each **【new or retained】** full-time **【job】** employee  
23 determined by the authority pursuant to **【section 3 of P.L.2011,**  
24 **c.149 (C.34:1B-244) to be located at the qualified business facility,**  
25 **subject to the provisions of this section】** the “New Jersey Economic  
26 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
27 Legislature as this bill) shall be as set forth in subsection b. of this  
28 section. The initial amount shall be credited to the applicant  
29 annually for each year of the eligibility period.

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

1 of qualified incentive area shall be as follows: (1) for a project  
2 located within an urban transit hub municipality, \$5,000 per year;  
3 (2) for a project in a distressed municipality, \$4,000 per year; (3)  
4 for a project in other priority areas, \$3,000 per year; and (4) for a  
5 project in other eligible areas, \$2,000 per year.

6 c. **【Notwithstanding the provisions of subsections a. and b. of**  
7 **this section, (1) the amount of tax credits available to be applied by**  
8 **the business annually shall not exceed the lesser of one tenth of the**  
9 **capital investment certified by the authority pursuant to section 6 of**  
10 **P.L.2011, c.149 (C.34:1B-247) or \$4,000,000, and (2) the number**  
11 **of new full-time jobs for which a business receives a tax credit shall**  
12 **not exceed the number of retained full-time jobs for which a**  
13 **business receives a tax credit, unless the business qualifies by**  
14 **creating at least 100 new full-time jobs in an industry identified by**  
15 **the authority as desirable for the State to maintain or attract.】 In**  
16 addition to the initial amount of the tax credit, the amount of the tax  
17 credit to be awarded for each full-time employee shall be increased  
18 by the amounts indicated if the project meets any of the following  
19 priority criteria: (1) for projects located in a deep poverty pocket or  
20 in an area that is the subject of a Choice Neighborhoods  
21 Transformation Plan funded by the federal Department of Housing  
22 and Urban Development, an increase of \$1,500 per year; (2) for a  
23 project located in a qualified incubator facility, an increase of \$500  
24 per year; (3) for a project located in a mixed-use development that  
25 incorporates sufficient workforce housing on site to accommodate a  
26 minimum of 20 percent of the full-time employees of the business,  
27 an increase of \$500 per year; (4) for a project located within a 1/2-  
28 mile radius surrounding the mid-point of a New Jersey Transit  
29 Corporation, Port Authority Transit Corporation, or Port Authority  
30 Trans-Hudson Corporation rail, bus, or ferry station platform area,  
31 including all light rail stations and property located within a one-  
32 mile radius of the mid-point of the platform area of such a rail, bus,  
33 or ferry station if the property is in a qualified municipality under  
34 the "Municipal Rehabilitation and Economic Recovery Act,"  
35 P.L.2002, c.43 (C.52:27BBB-1 et seq.), or within a transit oriented  
36 development, an increase of \$1,500 per year; (5) for a project not  
37 eligible for the increase set forth in paragraph (4) of this subsection  
38 and at which a shuttle service is available to a commuter rail, bus,  
39 or ferry station during rush hour periods on all business days during  
40 the commitment period, an increase of \$500 per year, (6) for a  
41 project whose location includes or is directly connected by rail spur  
42 to a freight rail line if the applicant utilizes that freight line as a  
43 regular part of the operation of its business during the commitment  
44 period, an increase of \$1,500 per year; (7) for a project not eligible  
45 for the increase set forth in paragraph (6) of this subsection and  
46 whose location is within one mile of a freight rail line spur if the  
47 applicant utilizes that freight line as a regular part of the operation  
48 of its business during the commitment period, an increase of \$500

1 per year; (8) for a project at which the capital investment is in  
2 excess of the minimum amount required for eligibility pursuant to  
3 this act, an increase \$500 per year for each additional amount of  
4 investment that exceeds the minimum amount by 20 percent, with a  
5 maximum increase of \$1,500 per year; (9) for a business that  
6 employs full-time positions at the project with an average salary in  
7 excess of the existing average salary for the county in which the  
8 project is located, an increase of \$250 per year during the  
9 commitment period for each 35 percent by which the project's  
10 average salary levels exceeds the county average salary, with a  
11 maximum increase of \$1,500 per year; (10) for a business that  
12 employs or retains large numbers of new or existing full-time  
13 employees during the commitment period, the increases shall be in  
14 accordance with the following schedule: (a) if the number of  
15 qualified full-time employees is between 251 and 400, \$500 per  
16 year; (b) if the number of qualified full-time employees is between  
17 401 and 600, \$750 per year; (c) if the number of qualified full-time  
18 employees is between 601 and 800, \$1000 per year; (d) if the  
19 number of qualified full-time employees is between 801 and 1,000,  
20 \$1,250 per year; (e) if the number of qualified full-time employees  
21 is in excess of 1,001, \$1,500 per year; (11) for a business in a  
22 targeted industry, an increase of \$500 per year; (12) for a business  
23 that employ a significant number of chronically unemployed or  
24 military veterans during the commitment period, an increase of  
25 \$100 per year for each ten percent of the new full-time employees  
26 that are either chronically unemployed or military veterans, with a  
27 maximum increase of \$500 per year; and (13) for a project  
28 materially exceeding the minimum environmental and sustainability  
29 standards by way of energy efficiency or renewable energy features,  
30 measures, or upgrades, an increase of \$250 per year; and (14) for a  
31 project exceeding the Leadership in Energy and Environmental  
32 Design's "Silver" rating standards, an additional increase of \$250  
33 per year, with a total increase of \$500 per year.

34 d. The total amount of the base tax credit for an eligible  
35 business for each new or retained full-time employee determined by  
36 the authority pursuant to the "New Jersey Economic Opportunity  
37 Act of 2013," P.L. , c. (C. ) (pending before the Legislature  
38 as this bill) shall be the sum of the initial amount as pursuant to  
39 subsection b. of this section and the various additional amounts for  
40 which the project is eligible pursuant to subsection c. of this  
41 section, subject to the following limitations: (1) for a project located  
42 within in an urban transit hub municipality, the base amount per  
43 full-time employee shall not exceed \$10,000 per year; (2) for a  
44 project in a distressed municipality, other than located within an  
45 urban transit hub, the base amount per full-time employee shall not  
46 exceed \$8,000 per year; (3) for a project in other priority areas, the  
47 base amount per full-time employee shall not exceed \$6,000 per

1 year; and (4) for a project in other eligible areas, the base amount  
2 per full-time employee shall not exceed \$4,000 per year.

3 e. After the determination by the authority of the base amount  
4 of tax credits for which a business is eligible for each full-time  
5 employee, the final amount of tax credits to be awarded shall be  
6 calculated as follows: (1) for each new full-time employee  
7 employed by the business or an affiliate at the qualified business  
8 facility, the business shall be entitled to tax credits equaling 100%  
9 of the base amount of tax credits per full-time employee; and (2) for  
10 each retained full-time employee employed by the business or an  
11 affiliate at the qualified business facility, the business shall be  
12 entitled to tax credits equaling 80 percent of the base amount of tax  
13 credits per full-time employee.

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

15  
16 10. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to  
17 read as follows:

18 6. a. **[(1) The value of all credits approved by the authority**  
19 **pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed**  
20 **\$200,000,000, except that the value of all credits approved by the**  
21 **authority pursuant to this section may exceed \$200,000,000 if the**  
22 **board of the authority determines the credits to be reasonable,**  
23 **justifiable, and appropriate; provided, however, the combined value**  
24 **of all credits approved by the authority pursuant to P.L.2007, c.346**  
25 **(C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.)**  
26 **shall not exceed \$1,750,000,000.]** (Deleted by amendment, P.L. ,  
27 c. ) (pending before the Legislature as this bill)

28 **[(2)A business, including any affiliate of the business or any**  
29 **business that is a tenant within any qualified business facility, shall**  
30 **make or acquire capital investments totaling not less than**  
31 **\$20,000,000 in a qualified business facility, at which the business**  
32 **shall employ not fewer than 100 full-time employees to be eligible**  
33 **for a credit pursuant to P.L.2011, c.149. A business that acquires or**  
34 **leases a qualified business facility shall also be deemed to have**  
35 **acquired the capital investment made or acquired by the seller or**  
36 **landlord, as the case may be.]** (Deleted by amendment,  
37 P.L. , c. ) (pending before the Legislature as this bill)

38 **[(3) A business shall not be allowed tax credits pursuant to**  
39 **P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-**  
40 **124 et seq.) relating to the same capital and employees that qualify**  
41 **the business for tax credits pursuant to P.L.2011, c.149. A business**  
42 **that is allowed a tax credit under this section shall not be eligible**  
43 **for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1**  
44 **et al.). A business shall not qualify for a tax credit under this**  
45 **section, based upon capital investment and employment of full-time**  
46 **employees, if that capital investment or employment was the basis**  
47 **for which a grant was provided to the business pursuant to the**

1 "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207  
2 et seq.).] (Deleted by amendment, P.L. , c. ) (pending before  
3 the Legislature as this bill)

4 [(4) Full-time employment for an accounting or privilege period  
5 shall be determined as the average of the monthly full-time  
6 employment for the period.] (Deleted by amendment, P.L. , c. )  
7 (pending before the Legislature as this bill)

8 [(5) The capital investment of the owner of a qualified business  
9 facility is that percentage of the capital investment made or  
10 acquired by the owner of the building that the percentage of net  
11 leasable area of the qualified business facility not leased to tenants  
12 is of the total net leasable area of the qualified business facility. For  
13 a business that is a tenant, the amount of capital investment in a  
14 facility that a leased area represents shall be equal to that  
15 percentage of the owner's total capital investment in the facility that  
16 the percentage of net leasable area leased by the tenant is of the  
17 total net leasable area of the qualified business facility. Capital  
18 investments made by a tenant shall be deemed to be included in the  
19 calculation of the capital investment made or acquired by the  
20 owner, but only to the extent necessary to meet the owner's  
21 minimum capital investment of \$20,000,000. Capital investments  
22 made by a tenant and not allocated to meet the owner's minimum  
23 capital investment threshold of \$20,000,000 shall be added to the  
24 amount of capital investment represented by the tenant's leased area  
25 in the qualified business facility.] (Deleted by amendment, P.L. ,  
26 c. ) (pending before the Legislature as this bill)

27 b. [A business shall apply for the tax credit prior to July 1,  
28 2014, and shall submit its documentation indicating that it has met  
29 the capital investment and employment specified in the project  
30 agreement for certification of its credit amount no later than July  
31 28, 2017.] Full-time employment for an accounting or privilege  
32 period shall be determined as the average of the monthly full-time  
33 employment for the period.

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

44 The credit amount for any tax period [ending after July 28, 2017,  
45 during] for which the documentation of a business' credit amount  
46 remains uncertified as of a date three years after the closing date of  
47 that period shall be forfeited, although credit amounts for the



1 remainder of the years of the [10-year credit] eligibility period  
2 shall remain available to it.

3 The credit amount that may be taken for a tax period of the  
4 business that exceeds the final liabilities of the business for the tax  
5 period may be carried forward for use by the business in the next 20  
6 successive tax periods, and shall expire thereafter [, provided that  
7 the value of all credits approved by the authority against tax  
8 liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not  
9 exceed \$150,000,000 and the combined value of all credits  
10 approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-  
11 207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not  
12 exceed \$1,750,000,000].

13 The amount of credit allowed for [a tax] the eligibility period to  
14 a business that is a tenant in a qualified business facility shall not  
15 exceed the business' total lease payments and other documented  
16 occupancy costs for use and occupancy of the qualified business  
17 facility for the [tax] eligibility period.

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

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

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

1 (2) If, in any tax period, the number of full-time employees  
2 employed by the business at the qualified business facility located  
3 within a qualified incentive area drops below [100 or 80 percent  
4 of] the minimum number of [new and retained] full-time jobs  
5 [specified in the project agreement] required by this program, then  
6 the business shall forfeit its credit amount for that tax period and  
7 each subsequent tax period, until the first tax period for which  
8 documentation demonstrating the restoration of the number of full-  
9 time employees employed by the business at the qualified business  
10 facility to [100] the minimum number of full-time jobs required by  
11 this program.

12 (3) If, in any tax period, the number of full-time employees  
13 employed by the business at the qualified business facility located  
14 within a qualified incentive area drops below the level on which a  
15 bonus was calculated pursuant to paragraph (1) of subsection c. of  
16 section 5 of P.L.2011, c.149 (C.34:1B-246), then the business shall  
17 forfeit the amount of its tax credits attributable to such bonus for  
18 that tax period and each subsequent tax period, until the first tax  
19 period for which documentation demonstrating the restoration of the  
20 number of full-time employees employed by the business at the  
21 qualified business facility to the amount required by P.L.2011,  
22 c.149 (C.34:1B-242 et seq.) to qualify for such bonus is provided.

23 (4) (a) If the qualified business facility is sold by the owner in  
24 whole or in part during the [10-year] eligibility period, the new  
25 owner shall not acquire the capital investment of the seller and the  
26 seller shall forfeit all credits for the tax period in which the sale  
27 occurs and all subsequent tax periods, provided however that any  
28 credits of [tenants] the business shall remain unaffected.

29 (b) If a [tenant] business leases or subleases its [tenancy]  
30 premises in the qualified business facility in whole or in part during  
31 the [10-year] eligibility period, the new tenant or subtenant shall  
32 not acquire the [credit] tax credits of the [sublessor] business, and  
33 the [sublessor tenant] business shall forfeit all credits for the tax  
34 period of its lease or sublease and all subsequent tax periods.  
35 Notwithstanding such forfeiture, a tenant that subleases less than all  
36 of its premises and does not thereby reduce its full-time employee  
37 count below the minimum number of new and retained full-time  
38 jobs required in section 3 of P.L.2011, c.149 (C.34:1B-244) shall  
39 not be affected by this paragraph.

40 e. If any business that applies to the program has previously  
41 received incentives authorized under the "Business Retention and  
42 Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.) or  
43 the "Business Employment Incentive Program Act," P.L.1996, c.26  
44 (C.34:1B-124 et seq.), the business shall be required to make  
45 repayment to the State in accordance with the following: if the  
46 business enters into an incentive agreement pursuant to this  
47 program and, as of the occurrence of the incentive effective date,

1 the obligations of the business under the previously awarded  
2 incentive agreement have not ended, the authority shall be  
3 permitted to recapture a portion of the incentives previously  
4 awarded to the business, with such permitted recapture not to  
5 exceed a percentage of the total incentives as were previously  
6 awarded, with that percentage to be equal to the percentage that the  
7 amount of time remaining until the prior obligations would have  
8 been completed bears to the total duration of the prior obligations.

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

10  
11 11. Section 8 of P.L.2011, c.149 (C.34:1B-249) is amended to  
12 read as follows:

13 8. a. The chief executive officer of the authority, in  
14 consultation with the Director of the Division of Taxation in the  
15 Department of the Treasury, shall adopt rules in accordance with  
16 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
17 seq.) as are necessary to implement P.L.2011, c.149 (C.34:1B-242  
18 et al.), including but not limited to: examples of and the  
19 determination of capital investment; the enumeration of qualified  
20 incentive areas; the enumeration of specific targeted industries;  
21 specific delineation of **[these]** the incentive areas; the  
22 determination of the limits, if any, on the expense or type of  
23 furnishings that may constitute capital improvements; the  
24 promulgation of procedures and forms necessary to apply for a tax  
25 credit, including the enumeration of the certification procedures and  
26 allocation of tax credits for different phases of a qualified business  
27 facility; and provisions for tax credit applicants to be charged an  
28 initial application fee, and ongoing service fees, to cover the  
29 administrative costs related to the tax credit.

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

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

40  
41 12. Section 1 of P.L.2009, c.136 (C.52:18-42) is amended to  
42 read as follows:

43 1. As used in this act:

44 "Business" means a corporation; sole proprietorship; partnership;  
45 corporation that has made an election under Subchapter S of  
46 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or  
47 any other business entity through which income flows as a  
48 distributive share to its owners; limited liability company; nonprofit

1 corporation; or any other form of business organization located  
2 either within or outside this State, but excluding any public or  
3 private institution of higher education.

4 "Environmental infrastructure project" means the acquisition,  
5 construction, improvement, repair or reconstruction of all or part of  
6 any structure, facility or equipment, or real or personal property  
7 necessary for or ancillary to any (1) wastewater treatment system  
8 project, including any stormwater management or combined sewer  
9 overflow abatement projects; or (2) water supply project, as  
10 authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or  
11 P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water  
12 resources project, as authorized pursuant to P.L.2003, c.162, but  
13 excluding the acquisition, construction, repair, or reconstruction of  
14 any building or other improvements to real property, or the  
15 acquisition or installation of any equipment or other personal  
16 property, that, upon completion, shall constitute a qualified  
17 employment incentive facility.

18 "Financial assistance" means funds made available as a grant or  
19 loan, including funds derived as proceeds from the issuance of tax-  
20 exempt bonds by the entity providing such assistance.

21 "Lead public agency" means the public entity designated by the  
22 State Treasurer pursuant to section 4 of this act to serve as the point  
23 of contact between a business and every State governmental entity  
24 having oversight of, or involvement in, a project for which the  
25 entity or entities are providing or will provide the business with  
26 financial assistance.

27 "Public entity" means the State, other than the Judicial branch of  
28 State government, any county, municipality, district, or other  
29 political subdivision thereof, and any agency, authority, or  
30 instrumentality of the foregoing, including, but not limited to, any  
31 county improvement authority and any economic development  
32 agency, authority, or other entity.

33 "Qualified employment incentive facility" means any building or  
34 other structure or portion of a building or other structure that,  
35 following the date on which occupation of the building or structure  
36 shall have commenced, shall be used exclusively as the premises of  
37 a project, related to the creation, relocation, or retention of jobs,  
38 that qualifies for incentives under the Business Retention and  
39 Relocation Assistance Grant Program established by section 3 of  
40 P.L.1996, c.25 (C.34:1B-114), the Business Employment Incentive  
41 Program established by section 3 of P.L.1996, c.26 (C.34:1B-126),  
42 the Grow New Jersey Assistance Program established by P.L.2011,  
43 c.149 (C.34:1B-242 et seq.), the Economic Redevelopment and  
44 Growth Grant program established by sections 3 through 18 of  
45 P.L.2009, c.90 (C.52:27D-489c et al.), the corporation business tax  
46 credit and insurance premium tax credit certificate transfer program  
47 established pursuant to section 17 of P.L.2004, c.65 (C.34:1B-  
48 120.2), the sales and use tax exemption certificate program

1 established pursuant to section 20 of P.L.2004, c.65 (C.34:1B-186),  
2 the exemption of retail sales of energy and utility service to  
3 qualified businesses within an urban enterprise zone from the sales  
4 and use tax pursuant to section 23 of P.L.2004, c.65 (C.52:27H-  
5 87.1), the urban transit hub tax credit program established pursuant  
6 to section 3 of P.L.2007, c.346 (C.34:1B-209), or any other  
7 program as the State Treasurer shall deem to be of similar kind and  
8 purpose; provided, however, that such exclusive use shall continue  
9 for the minimum period of time prescribed by the applicable law or  
10 any regulation adopted pursuant thereto, or under any project  
11 agreement or other contract executed pursuant to such law or  
12 regulation, or if no such minimum period shall be so prescribed, for  
13 a period of four years.

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

25 "Remediation" or "remediate" means all necessary actions to  
26 investigate and clean up or respond to any known, suspected, or  
27 threatened discharge of contaminants, including, as necessary, the  
28 preliminary assessment, site investigation, remedial investigation,  
29 and remedial action, provided, however, that "remediation" or  
30 "remediate" shall not include the payment of compensation for  
31 damage to, or loss of, natural resources, and shall not include the  
32 acquisition, construction, repair, or reconstruction of any building  
33 or other improvements to real property, or the acquisition or  
34 installation of any equipment or other personal property, that, upon  
35 completion, shall constitute a qualified employment incentive  
36 facility.

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

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

46

47 13. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended  
48 to read as follows:

1       18. a. Notwithstanding any rules of the council to the contrary,  
2 for developments consisting of newly-constructed residential units  
3 located, or to be located, within the jurisdiction of any regional  
4 planning entity required to adopt a master plan or comprehensive  
5 management plan pursuant to statutory law, including the New  
6 Jersey Meadowlands Commission pursuant to subsection (i) of  
7 section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission  
8 pursuant to section 7 of the "Pinelands Protection Act," P.L.1979,  
9 c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization  
10 Planning Authority pursuant to section 5 of P.L.2006, c.16  
11 (C.52:27I-5), or its successor, and the Highlands Water Protection  
12 and Planning Council pursuant to section 11 of P.L.2004, c.120  
13 (C.13:20-11), but excluding joint planning boards formed pursuant  
14 to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be  
15 required to be reserved for occupancy by low or moderate income  
16 households at least 20 percent of the residential units constructed, to  
17 the extent this is economically feasible.

18       b. Subject to the provisions of subsection d. of this section, a  
19 developer of a project consisting of newly-constructed residential  
20 units being financed in whole or in part with State funds, including,  
21 but not limited to, transit villages designated by the Department of  
22 Transportation and units constructed on State-owned property, shall  
23 be required to reserve at least 20 percent of the residential units  
24 constructed for occupancy by low or moderate income households,  
25 as those terms are defined in section 4 of P.L.1985, c.222  
26 (C.52:27D-304), with affordability controls as required under the  
27 rules of the council, unless the municipality in which the property is  
28 located has received substantive certification from the council and  
29 such a reservation is not required under the approved affordable  
30 housing plan, or the municipality has been given a judgment of  
31 repose or a judgment of compliance by the court, and such a  
32 reservation is not required under the approved affordable housing  
33 plan.

34       c. (1) The Legislature recognizes that regional planning entities  
35 are appropriately positioned to take a broader role in the planning  
36 and provision of affordable housing based on regional planning  
37 considerations. In recognition of the value of sound regional  
38 planning, including the desire to foster economic growth, create a  
39 variety and choice of housing near public transportation, protect  
40 critical environmental resources, including farmland and open space  
41 preservation, and maximize the use of existing infrastructure, there  
42 is created a new program to foster regional planning entities.

43       (2) The regional planning entities identified in subsection a. of  
44 this section shall identify and coordinate regional affordable  
45 housing opportunities in cooperation with municipalities in areas  
46 with convenient access to infrastructure, employment opportunities,  
47 and public transportation. Coordination of affordable housing  
48 opportunities may include methods to regionally provide housing in

1 line with regional concerns, such as transit needs or opportunities,  
2 environmental concerns, or such other factors as the council may  
3 permit; provided, however, that such provision by such a regional  
4 entity may not result in more than a 50 percent change in the fair  
5 share obligation of any municipality; provided that this limitation  
6 shall not apply to affordable housing units directly attributable to  
7 development by the New Jersey Sports and Exposition Authority  
8 within the New Jersey Meadowlands District.

9 (3) In addition to the entities identified in subsection a. of this  
10 section, the Casino Reinvestment Development Authority, in  
11 conjunction with the Atlantic County Planning Board, shall identify  
12 and coordinate regional affordable housing opportunities directly  
13 attributable to Atlantic City casino development, which may be  
14 provided anywhere within Atlantic County, subject to the  
15 restrictions of paragraph (4) of this subsection.

16 (4) The coordination of affordable housing opportunities by  
17 regional entities as identified in this section shall not include  
18 activities which would provide housing units to be located in those  
19 municipalities that are eligible to receive aid under the "Special  
20 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or  
21 are coextensive with a school district which qualified for  
22 designation as a "special needs district" pursuant to the "Quality  
23 Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or at  
24 any time in the last 10 years have been qualified to receive  
25 assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall  
26 within the jurisdiction of any of the regional entities specified in  
27 subsection a. of this section.

28 d. Notwithstanding the provisions of subsection b. of this  
29 section, or any other law or regulation to the contrary, for purposes  
30 of mixed use projects or qualified residential projects in which a  
31 business receives a tax credit pursuant to P.L.2007, c.346 (C.34:1B-  
32 207 et seq.) or a tax credit pursuant to section 35 of P.L.2009, c.90  
33 (C.34:1B-209.3) or a tax credit pursuant to section 6 of P.L.2009,  
34 c.90 (C.52:27D-489f), as amended by the "New Jersey Economic  
35 Opportunity Act of 2013," P.L. , c. (C. ) (pending before the  
36 Legislature as this bill), or both, an "eligible municipality," as  
37 defined in section 2 of P.L.2007, c.346 (C.34:1B-208), or the  
38 municipality in which a redevelopment project, as defined in  
39 section 3 of P.L.2009, c.90 (C.52:27D-489c), is located, as  
40 applicable, shall have the option of deciding the percentage of  
41 newly-constructed residential units within the project, up to 20  
42 percent of the total, required to be reserved for occupancy by low or  
43 moderate income households. For a mixed use project or a  
44 qualified residential project that has received preliminary or final  
45 site plan approval prior to the effective date of P.L.2011, c.89, the  
46 percentage shall be deemed to be the percentage, if any, of units

1 required to be reserved for low or moderate income households in  
2 accordance with the terms and conditions of such approval.

3 (cf: P.L.2011, c.89, s.5)

4  
5 14. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to  
6 read as follows:

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

9 "Applicant" means a developer proposing to enter into a  
10 redevelopment incentive grant agreement.

11 "Ancillary infrastructure project" means [public] structures or  
12 improvements that are located [in the public right-of-way] outside  
13 the project area of a redevelopment project, including parking  
14 garages, freight rail spurs, roadway overpasses, and train station  
15 platforms, provided a developer or municipal redeveloper has  
16 demonstrated that the redevelopment project would not be  
17 economically viable or promote the use of public transportation  
18 without such improvements.

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

22 "Deep poverty pocket" means any area comprised of three or  
23 more contiguous census tracts determined by the United States  
24 Census Bureau as having, at the time of an application for a project,  
25 an average federal poverty level of 20 percent or more.

26 "Disaster recovery project" means a redevelopment project  
27 located on property that has been damaged or destroyed as a result  
28 of a federally-declared disaster.

29 "Distressed municipality" means an eligible municipality under  
30 section 2 of P.L.2007, c.346 (C.34:1B-208), a municipality  
31 qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178  
32 et seq.), a municipality under the supervision of the Local Finance  
33 Board pursuant to the provisions of the "Local Government  
34 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), or  
35 a municipality identified by the Director of the Division of Local  
36 Government Services in the Department of Community Affairs to  
37 be facing serious fiscal distress.

38 "Exempt business" means a business unrelated to the developer  
39 that operates a premises at the site of the redevelopment project but  
40 whose incurred costs to construct its respective premises are  
41 excluded from the project cost. An exempt business shall not be  
42 subject to the requirements of the Economic Redevelopment and  
43 Growth Grant program.

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



1 household income for households of the same size within the  
2 housing region in which the housing is located.

3 "Developer" means any person who enters or proposes to enter  
4 into a redevelopment incentive grant agreement pursuant to the  
5 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i). A  
6 developer also may be a municipal government or a redevelopment  
7 agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

8 "Director" means the Director of the Division of Taxation in the  
9 Department of the Treasury.

10 "Eligible revenue" means the property tax increment and any  
11 other incremental revenues set forth in section 11 of P.L.2009, c.90  
12 (C.52:27D-489k).

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

18 "Infrastructure improvements in the public right-of-way" mean  
19 public structures or improvements located in the public right of way  
20 that are located within a project area or that constitute an ancillary  
21 infrastructure project.

22 "Municipal redeveloper" means a municipal government or a  
23 redevelopment agency acting on behalf of a municipal government  
24 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3) that is an  
25 applicant for a redevelopment incentive grant agreement.

26 "Project area" means land or lands under common ownership or  
27 control including through one or more property owners  
28 associations, a joint venture between one or more property owners,  
29 a redevelopment agreement with a municipality, or as otherwise  
30 established by a municipality.

31 "Project cost" means the costs incurred in connection with the  
32 redevelopment project by the developer and such landlords, tenants,  
33 or other business occupants as may be part of the project until the  
34 issuance of a permanent certificate of occupancy, or until such other  
35 time specified by the authority, for a specific investment or  
36 improvement, including lands, buildings, improvements, real or  
37 personal property, or any interest therein, including leases  
38 discounted to present value, including lands under water, riparian  
39 rights, space rights and air rights acquired, owned, developed or  
40 redeveloped, constructed, reconstructed, rehabilitated or improved,  
41 any environmental remediation costs, plus costs not directly related  
42 to construction, of an amount not to exceed 20 percent of the total  
43 costs, capitalized interest paid to third parties, and the cost of  
44 infrastructure improvements, including ancillary infrastructure  
45 projects, but excluding any particular costs for which the project  
46 has received federal, State, or local funding.

47 "Project financing gap" means: a. the part of the total  
48 **[redevelopment]** project cost, including return on investment, that

1 remains to be financed after all other sources of capital have been  
2 accounted for, including, but not limited to, developer contributed  
3 capital, which may include the appraised value of any existing  
4 improvements in the project area owned or controlled by the  
5 developer, and which shall not be less than 20 percent of the total  
6 project cost, excluding the cost of infrastructure improvements in  
7 the public right-of-way and investor or financial entity capital or  
8 loans for which the developer, after making all good faith efforts to  
9 raise additional capital, certifies that additional capital cannot be  
10 raised from other sources on a non-recourse basis; b. the cost of  
11 infrastructure improvements including any ancillary infrastructure  
12 project; and c. the amount by which total project cost exceeds the  
13 cost of an alternative location for the redevelopment project.

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

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

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

20 (2) multiplying that product by a fraction having a numerator  
21 equal to the taxable value of all the property assessed within the  
22 project area, minus the property tax increment base, and having a  
23 denominator equal to the taxable value of all property assessed  
24 within the project area.

25 For the purpose of this definition, "property tax increment base"  
26 means the aggregate taxable value of all property assessed which is  
27 located within the redevelopment project area as of October 1st of  
28 the year preceding the year in which the redevelopment incentive  
29 grant agreement is authorized.

30 "Qualified incubator facility" means a commercial building  
31 having over 100,000 square feet of office, laboratory, or industrial  
32 space with at least 75 percent of its gross leasable area restricted to  
33 use by technology startup companies during the commitment  
34 period.

35 "Qualified residential project" means the portion of a  
36 redevelopment project that consists of multi-family residential units  
37 and represents at least \$17,500,000 of the total project cost or  
38 \$10,000,000 of the total project cost if the project is a disaster  
39 recovery project.

40 "Qualifying economic redevelopment and growth grant incentive  
41 area" means any area designated pursuant to P.L.1985, c.398  
42 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning  
43 Area 2 (Suburban), [or a center as designated by the State Planning  
44 Commission; an area zoned for development pursuant to] Planning  
45 Area 3 (Fringe Planning Area), or Planning Area 4A (Rural  
46 Planning Area); a designated center, or a designated growth center  
47 in an endorsed plan until June 30, 2013, or until the State Planning  
48 Commission revises and readopts New Jersey's State Strategic Plan

1 and adopts regulations to refine this definition as it pertains to  
2 Statewide planning areas, whichever is later; a smart growth area  
3 and planning area designated in a master plan adopted by the New  
4 Jersey Meadowlands Commission pursuant to subsection (i) of  
5 section 6 of P.L.1968, c.404 (C.13:17-6) [or subject to a  
6 redevelopment plan adopted by the New Jersey Meadowlands  
7 Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-  
8 21); any land owned by the New Jersey Sports and Exposition  
9 Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et  
10 seq.), within the boundaries of the Hackensack Meadowlands  
11 District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4); a  
12 pinelands regional growth area, a pinelands town management area,  
13 a pinelands village, or a military and federal installation area  
14 established pursuant to the pinelands comprehensive management  
15 plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); a  
16 transit village, as determined by the Commissioner of  
17 Transportation; and federally owned land approved for closure  
18 under a federal Base Realignment Closing Commission action] ;  
19 regional growth areas, villages, and towns, designated in the  
20 comprehensive management plan prepared and adopted by the  
21 Pinelands Commission pursuant to section 7 of the "Pinelands  
22 Protection Act," P.L.1979, c.111 (C.13:18A-8); the planning area of  
23 the Highlands Region as defined in section 3 of the "Highlands  
24 Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-3),  
25 and any 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); an urban enterprise zone designated  
28 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001,  
29 c.347 (C.52:27H-66.2 et al.); an area determined to be in need of  
30 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79  
31 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department  
32 of Community Affairs; or similar areas designated by the  
33 Department of Environmental Protection. "Qualifying economic  
34 redevelopment and growth grant incentive area" shall not include an  
35 area designated pursuant to the State Development and  
36 Redevelopment Plan adopted, as of the effective date of P.L.2008,  
37 c.78, pursuant to "State Planning Act," P.L.1985, c.398 (C.52:18A-  
38 196 et al.) as Planning Area 4B (Rural/Environmentally Sensitive)  
39 or Planning Area 5 (Environmentally Sensitive), except for any area  
40 within Planning Area 4B or Planning Area 5 that is a deep poverty  
41 pocket, a designated center or a designated growth center in an  
42 endorsed plan, any property consisting of a disaster recovery  
43 project, qualified incubator facility, tourism destination project,  
44 transit project, or vacant health facility project, any vacant  
45 commercial building, or any federally owned land approved for  
46 closure under a federal Base Realignment Closing Commission  
47 action.

1 "Redevelopment incentive grant agreement" means an agreement  
2 between, (1) the State and the New Jersey Economic Development  
3 Authority and a developer, or (2) a municipality and a developer, or  
4 a municipal ordinance authorizing a project to be undertaken by a  
5 municipal redeveloper, under which, in exchange for the proceeds  
6 of an incentive grant, the developer agrees to perform any work or  
7 undertaking necessary for a redevelopment project, including the  
8 clearance, development or redevelopment, construction, or  
9 rehabilitation of any structure or improvement of commercial,  
10 industrial, residential, or public structures or improvements within a  
11 qualifying economic redevelopment and growth grant incentive area  
12 or a transit village.

13 "Redevelopment project" means a specific **[work]** investment or  
14 improvement, including lands, buildings, improvements, real and  
15 personal property or any interest therein, including lands under  
16 water, riparian rights, space rights and air rights, acquired, owned,  
17 leased, developed or redeveloped, constructed, reconstructed,  
18 rehabilitated or improved, undertaken by a developer, owner or  
19 tenant, or both, within a project area and any ancillary infrastructure  
20 project **[associated therewith]** including infrastructure  
21 improvements in the public right of way, as set forth in an  
22 application to be made to the authority. The use of the term  
23 "redevelopment project" in sections 3 through 18 of P.L.2009, c.90  
24 (C.52:27D-489c et al.) shall not be limited to only redevelopment  
25 projects located in areas determined to be in need of redevelopment  
26 pursuant to sections 5 and 6 of P.L. 1992, c.79 (C.40A:12A-5 and  
27 40A:12A-6).

28 "Redevelopment utility" means a self-liquidating fund created by  
29 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-  
30 489l) to account for revenues collected and incentive grants paid  
31 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other  
32 revenues dedicated to a redevelopment project.

33 "Revenue increment base" means the amounts of all eligible  
34 revenues from sources within the redevelopment project area in the  
35 calendar year preceding the year in which the redevelopment  
36 incentive grant agreement is executed, as certified by the State  
37 Treasurer for State revenues, and the chief financial officer of the  
38 municipality for municipal revenues.

39 "Tourism destination project" means a redevelopment project  
40 that will be among the most visited privately owned or operated  
41 tourism or recreation sites in the State as determined at the  
42 discretion of the authority.

43 "Transit project" means a redevelopment project located within a  
44 1/2-mile radius surrounding the mid-point of a New Jersey Transit  
45 Corporation, Port Authority Transit Corporation, or Port Authority  
46 Trans-Hudson Corporation rail, bus, or ferry station platform area,  
47 including all light rail stations.

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

5 "Urban transit hub sites" means project locations within a 1/2-  
6 mile radius surrounding the mid-point of a New Jersey Transit  
7 Corporation, Port Authority Transit Corporation or Port Authority  
8 Trans-Hudson Corporation rail, bus, or ferry station platform area,  
9 including all light rail stations, or adjacent to freight rail, in any  
10 municipality considered an "eligible municipality," as defined in  
11 section 2 of P.L.2007, c.346 (C.34:1B-208), as of December 31,  
12 2012.

13 "Vacant commercial building" means any commercial building  
14 or complex of commercial buildings having over 400,000 square  
15 feet of office, laboratory, or industrial space that is more than 70  
16 percent unoccupied at the time of application to the authority or is  
17 negatively impacted by the approval of a "qualified business  
18 facility," as defined pursuant to section 2 of P.L.2007, c.346  
19 (C.34:1B-208).

20 "Vacant health facility project" means a redevelopment project  
21 where a health facility currently exists and is considered vacant. A  
22 health facility shall be considered vacant if at least 70 percent of  
23 that facility is not been open to the public or utilized to serve any  
24 patients at the time of application to the authority.

25 "Workforce housing" means housing affordable according to  
26 federal Department of Housing and Urban Development or other  
27 recognized standards for home ownership and rental costs and  
28 occupied or reserved for occupancy by households with a gross  
29 household income equal to more than 50 percent but less than 120  
30 percent of the median gross household income for households of the  
31 same size within the housing region in which the housing is located.  
32 (cf: P.L.2011, c.89, s.6)

33  
34 15. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to  
35 read as follows:

36 6. a. Up to the limits established in subsection b. of this section  
37 and in accordance with a redevelopment incentive grant agreement,  
38 beginning upon the receipt of occupancy permits for any portion of  
39 the project, or upon such other event evidencing project completion  
40 as set forth in the incentive grant agreement, the State Treasurer  
41 shall pay to the developer incremental State revenues directly  
42 realized from businesses operating on or at the site of the  
43 redevelopment project **【premises】**, including exempt businesses,  
44 from the following taxes: the Corporation Business Tax Act (1945),  
45 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine  
46 insurance companies pursuant to R.S.54:16-1 et seq., the tax  
47 imposed on insurers generally, pursuant to P.L.1945, c.132  
48 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities

1 gross receipts tax and public utility excise tax imposed on sewerage  
2 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et  
3 seq.), those tariffs and charges imposed by electric, natural gas,  
4 telecommunications, water and sewage utilities, and cable television  
5 companies under the jurisdiction of the New Jersey Board of  
6 Utilities, or comparable entity, related to societal benefits charges  
7 assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any  
8 charges paid for compliance with the "Global Warming Response  
9 Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy  
10 facility assessment unit taxes paid pursuant to section 67 of  
11 P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on  
12 public utility and cable television services and commodities, the tax  
13 derived from net profits from business, a distributive share of  
14 partnership income, or a pro rata share of S corporation income  
15 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et  
16 seq., the tax derived from a business at the site of a redevelopment  
17 project that is required to collect the tax pursuant to the "Sales and  
18 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed  
19 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase  
20 of furniture, fixtures and equipment, or materials [used] for the  
21 remediation, the construction of new structures [, or the  
22 construction of new residences] or residences, or the renovation of  
23 same, at the site of a redevelopment project, the tax imposed  
24 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from purchases of  
25 goods and services used in the ongoing operation of a business at  
26 the site of the redevelopment project, the hotel and motel occupancy  
27 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),  
28 or the portion of the fee imposed pursuant to section 3 of P.L.1968,  
29 c.49 (C.46:15-7) derived from the sale of real property at the site of  
30 the redevelopment project and paid to the State Treasurer for use by  
31 the State, that is not credited to the "Shore Protection Fund" or the  
32 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New  
33 Jersey Affordable Housing Trust Fund") pursuant to section 4 of  
34 P.L.1968, c.49 (C.46:15-8).

35 b. Up to an average of 75 percent of the projected annual  
36 incremental revenues, averaged over the length of time during  
37 which the reimbursement shall be granted, may be pledged towards  
38 the State portion of an incentive grant. In the case of a qualified  
39 residential project, if the actual amount of incremental revenues so  
40 pledged towards the State portion of an incentive grant shall in any  
41 year of the incentive grant be inadequate to fully fund the amount of  
42 such State portion of the incentive grant for such year specified in  
43 the incentive grant agreement, the developer shall be awarded tax  
44 credits equal to the difference between the two amounts. The value  
45 of all credits approved by the authority pursuant to subsection b. of  
46 this section shall not exceed \$500,000,000, of which \$150,000,000  
47 of such credits shall be restricted to qualified residential projects  
48 located on urban transit hub sites that are commuter rail in nature or

1 in deep poverty pockets, \$100,000,000 of such credits shall be  
2 restricted to qualified residential projects in distressed  
3 municipalities outside of urban transit hub sites or deep poverty  
4 pockets, and \$100,000,000 of such credits shall be restricted to  
5 qualified residential projects that are disaster recovery projects.  
6 Not more than \$33,000,000 of credits shall be awarded to any  
7 qualified residential project in a deep poverty pocket or distressed  
8 municipality and not more than \$20,000,000 of credits shall be  
9 awarded to any other qualified residential project. The developer of  
10 a qualified residential project seeking an award of credits towards  
11 the funding of its incentive grant shall submit an incentive grant  
12 application prior to July 1, 2015 and if approved shall submit a  
13 temporary certificate of occupancy for such project no later than  
14 July 28, 2018. Credits shall be awarded by the authority on the  
15 basis of one or more competitive solicitations. Credits shall not be  
16 awarded to more than four qualified residential projects in any  
17 distressed municipality or to more than two qualified residential  
18 projects in any other municipality falling within a qualifying  
19 economic redevelopment and growth grant incentive area. Credits  
20 awarded to an developer pursuant to subsection b. of this section  
21 shall be utilized or transferred by the developer as if such credits  
22 had been awarded to the developer pursuant to P.L.2009, c.90  
23 (C.52:27D-489a et al.) for qualified residential projects thereunder.  
24 No portion of the revenues pledged pursuant to the “New Jersey  
25 Economic Opportunity Act of 2013,” P.L. , c. (C. ) (pending  
26 before the Legislature as this bill) shall be subject to withholding or  
27 retainage for adjustment, in the event the developer or taxpayer  
28 waives its rights to claim a refund thereof.

29 c. All administrative costs associated with the incentive grant  
30 shall be assessed to the applicant and be retained by the State  
31 Treasurer from the annual incentive grant payments.

32 d. The incremental revenue for the revenues listed in  
33 subsection a. of this section shall be calculated as the difference  
34 between the amount collected in any fiscal year from any eligible  
35 revenue source included in the State redevelopment incentive grant  
36 agreement, less the revenue increment base for that eligible  
37 revenue.

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

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

43  
44 16. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to  
45 read as follows:

46 8. a. (1) The **【New Jersey Economic Development Authority】**  
47 authority, in consultation with the State Treasurer, shall promulgate

1 an incentive grant application form and procedure for the Economic  
2 Redevelopment and Growth Grant program.

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

7 (b) Through regulation, the [Economic Development Authority]  
8 authority shall establish standards for redevelopment projects  
9 seeking State or local incentive grants based on the green building  
10 manual prepared by the Commissioner of Community Affairs  
11 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),  
12 regarding the use of renewable energy, energy-efficient technology,  
13 and non-renewable resources in order to reduce environmental  
14 degradation and encourage long-term cost reduction.

15 b. Within each incentive grant application, a developer shall  
16 certify information concerning:

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

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

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

23 (4) estimates of the revenue increment base, the eligible  
24 revenues for the project, and the assumptions upon which those  
25 estimates are made.

26 c. (1) With regard to State tax revenues proposed to be pledged  
27 for an incentive grant the authority and the State Treasurer shall  
28 review the [redevelopment] project costs, evaluate and validate the  
29 project financing gap estimated by the developer, and conduct a  
30 State fiscal impact analysis to ensure that the overall public  
31 assistance provided to the project will result in net benefits to the  
32 State including, without limitation, both direct and indirect  
33 economic benefits and non-financial community revitalization  
34 objectives, including but not limited to, the promotion of the use of  
35 public transportation in the case of the ancillary infrastructure  
36 project portion of any transit project.

37 (2) With regard to local incremental revenues proposed to be  
38 pledged for an incentive grant the authority and the Local Finance  
39 Board shall review the [redevelopment] project costs, and except  
40 with respect to an application by a municipal redeveloper, evaluate  
41 and validate the project financing gap projected by the developer,  
42 and conduct a local fiscal impact analysis to ensure that the overall  
43 public assistance provided to the project will result in net benefits to  
44 the municipality wherein the redevelopment project is located  
45 including, without limitation, both direct and indirect economic  
46 benefits and non-financial community revitalization objectives,  
47 including but not limited to, the promotion of the use of public



1 transportation in the case of the ancillary infrastructure project  
2 portion of any transit project.

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

8 (4) The costs of the aforementioned reviews shall be assessed to  
9 the applicant as an application fee.  
10 (cf: P.L.2010, c.10, s.8)

11  
12 17. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to  
13 read as follows:

14 9. a. The authority is authorized to enter into a redevelopment  
15 incentive grant agreement with a developer for any redevelopment  
16 project located within a qualifying economic redevelopment and  
17 growth grant incentive area that does not qualify as such area solely  
18 by virtue of being a transit village.

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

23 c. The Chief Executive Officer of the [New Jersey Economic  
24 Development Authority] authority, in consultation with the State  
25 Treasurer shall negotiate the terms and conditions of any  
26 redevelopment incentive grant agreement on behalf of the State.

27 d. The redevelopment incentive grant agreement shall specify  
28 the maximum amount of project costs, the amount of the incentive  
29 grant to be awarded the developer, the frequency of payments, and  
30 the length of time, which shall not exceed 20 years, during which  
31 that reimbursement shall be granted. Except for redevelopment  
32 incentive grant agreements with a municipal redeveloper or with the  
33 developer of a redevelopment project solely with respect to the cost  
34 of infrastructure improvements in the public right-of-way including  
35 any ancillary infrastructure project in the public right-of-way, in no  
36 event shall the combined amount of the reimbursements under  
37 redevelopment incentive grant agreements with the State or  
38 municipality exceed [20] 35 percent of the total project cost [of the  
39 project]. The authority shall be permitted to increase the amount of  
40 the reimbursement under the redevelopment incentive grant  
41 agreement with the State by up to five percent of the total project  
42 cost if the project is: (1) located in a distressed municipality which  
43 lacks adequate access to nutritious food in the judgment of the  
44 Chief Executive Officer of the authority and will include either a  
45 supermarket or grocery store with a minimum of 15,000 square feet  
46 of selling space devoted to the sale of consumable products or a  
47 prepared food establishment selling only nutritious ready to serve  
48 meals as a result of financial inducements to be given by the

1 developer to the operator of such premises; (2) located in a  
2 distressed municipality which lacks adequate access to health care  
3 and health services in the judgment of the Chief Executive Officer  
4 of the authority and will include a health care and health services  
5 support center with a minimum of 10,000 square feet of space  
6 devoted to the provision of health care and health services as a  
7 result of financial inducements to be given by the developer to the  
8 operator of such premises; (3) located in a distressed municipality  
9 which has a business located therein that is required to respond to a  
10 request for proposal to fulfill a contract with the federal government  
11 as set forth in subsection d. of section 3 of P.L.2011, c.149  
12 (C.34:1B-244); (4) a transit project; (5) a qualified residential  
13 project in which at least 10 percent of the residential units are  
14 constructed as and reserved for workforce housing; or (6) a disaster  
15 recovery project. In addition, if there remains a project financing  
16 gap with respect to a developer's redevelopment project after the  
17 maximum combined amounts provided in this paragraph are  
18 considered, then the authority shall be permitted to make a bonus  
19 award increasing the amount of the reimbursement under the  
20 redevelopment incentive grant agreement with the State by up to 15  
21 percent of the total project cost. In making a bonus award to a  
22 developer, the authority shall consider any factors that are found to  
23 contribute to the remaining project financing gap, such as whether  
24 the project: (a) is located in a distressed municipality and there  
25 exists a financial gap between the fair market commercial rental  
26 rates in the relevant marketplace and the commercial rental rates  
27 that are necessary to make the redevelopment project economically  
28 feasible; (b) is located on an environmentally contaminated site  
29 requiring remediation; (c) is a qualified residential project in which  
30 at least ten percent of the residential units are constructed as and  
31 reserved for low income housing; (d) would include energy  
32 efficiency or renewable energy features, measures or upgrades in  
33 excess of the green building requirements of the Economic  
34 Redevelopment and Growth Grant program which requirements  
35 shall be as set forth in the New Jersey Green Building Manual  
36 prepared by the Department of Community Affairs; or (e) is a  
37 qualified incubator facility. For the purposes of calculating the total  
38 project cost [of all projects], the cost of [infrastructure  
39 improvements in the public right-of-way and] publicly owned  
40 facilities, other than infrastructure improvements including any  
41 ancillary infrastructure project, shall not be included. The amount  
42 of the redevelopment incentive grant for a municipal redeveloper or  
43 for the developer of a redevelopment project solely with respect to  
44 the cost of infrastructure improvements in the public right-of-way  
45 including any ancillary infrastructure project in the public right-of-  
46 way may include the total cost of such infrastructure improvements  
47 and publicly owned facilities.

1 e. The authority and the State Treasurer may enter into a  
2 redevelopment incentive grant agreement only if they make a  
3 finding that the State revenues to be realized from the  
4 redevelopment project will be in excess of the amount necessary to  
5 reimburse the developer for its project financing gap. This finding  
6 may be made by an estimation based upon the professional  
7 judgment of the Chief Executive Officer of the [New Jersey  
8 Economic Development Authority] authority and the State  
9 Treasurer.

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

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

16 (2) the extent of economic and related social distress in the  
17 municipality and the area to be affected by the redevelopment  
18 project or the level of site specific distress to include dilapidated  
19 conditions, brownfields designation, environmental contamination,  
20 pattern of vacancy, abandonment, or under utilization of the  
21 property, or other site conditions as determined by the authority;

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

24 (4) the likelihood that the redevelopment project shall, upon  
25 completion, be capable of generating new tax revenue in an amount  
26 in excess of the amount necessary to reimburse the developer for  
27 project costs incurred as provided in the redevelopment incentive  
28 grant agreement , it being expressly understood that any tax revenue  
29 generated by a redevelopment project that is a disaster recovery  
30 project shall be considered new tax revenue even if the same or  
31 more tax revenue was generated at or on the site prior to the  
32 disaster;

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

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

39 (7) the degree to which the redevelopment project enhances and  
40 promotes job creation and economic development or the promotion  
41 of the use of public transportation.

42 g. (1) A developer that has entered into a redevelopment  
43 incentive grant agreement with the authority and the State Treasurer  
44 pursuant to this section may, upon notice to and consent of the  
45 authority and the State Treasurer, pledge and assign as security or  
46 support for any loan or bond, any or all of its right, title and interest  
47 in and to such agreements and in the incentive grants payable  
48 thereunder, and the right to receive same, along with the rights and

1 remedies provided to the developer under such agreement. Any  
2 such assignment shall be an absolute assignment for all purposes,  
3 including the federal bankruptcy code.

4 (2) Any pledge of incentive grants made by the developer shall  
5 be valid and binding from the time when the pledge is made and  
6 filed in the records of the authority. The incentive grants so  
7 pledged and thereafter received by the developer shall immediately  
8 be subject to the lien of the pledge without any physical delivery  
9 thereof or further act, and the lien of any pledge shall be valid and  
10 binding as against all parties having claims of any kind in tort,  
11 contract, or otherwise against the developer irrespective of whether  
12 the parties have notice thereof. Neither the redevelopment  
13 incentive grant agreement nor any other instrument by which a  
14 pledge under this section is created need be filed or recorded except  
15 with the authority.

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

17  
18 18. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to  
19 read as follows:

20 11. a. The governing body of a municipality is authorized to  
21 enter into a redevelopment incentive grant agreement with a  
22 developer, which shall not be effective until adopted by ordinance,  
23 for any redevelopment project located within a qualifying economic  
24 redevelopment and growth grant incentive area.

25 b. The redevelopment incentive grant agreement shall specify  
26 the maximum amount of project costs, the amount of the incentive  
27 grant to be awarded the developer, the frequency of payments, and  
28 the length of time, which shall not exceed 20 years, during which  
29 that reimbursement shall be granted. Except for redevelopment  
30 incentive grants with a municipal redeveloper or with the developer  
31 of a redevelopment project solely with respect to the cost of  
32 infrastructure improvements in the public right-of-way including  
33 any ancillary infrastructure project in the public right-of-way, in no  
34 event shall the combined amount of the reimbursements under  
35 redevelopment incentive grant agreements with the State or  
36 municipality exceed **[20]** 35 percent of the total project cost **[of the**  
37 **project]** plus any bonus award of the State portion of such  
38 combined amount as set forth in subsection d. of section 9 of  
39 P.L.2009, c.90 (C.52:27D-489i). For the purposes of calculating  
40 the total project cost **[of all projects]**, the cost of **[infrastructure**  
41 **improvements in the public right-of-way and]** publicly owned  
42 facilities, other than infrastructure improvements including any  
43 ancillary infrastructure project, shall not be included. The amount  
44 of the redevelopment incentive grant for a municipal redeveloper or  
45 for the developer of a redevelopment project solely with respect to  
46 the cost of infrastructure improvements in the public right-of-way  
47 including any ancillary infrastructure project in the public right-of-

1 way may include the total cost of such infrastructure improvements  
2 and publicly owned facilities.

3 c. The municipality may enter into a redevelopment incentive  
4 grant agreement only if the chief financial officer of the  
5 municipality makes a finding that the incremental revenues to be  
6 realized from the redevelopment project will be in excess of the  
7 amount necessary to reimburse the developer for its project  
8 financing gap. Such finding shall be based upon appropriate  
9 documentation and calculations supporting the decision.

10 d. Within a qualifying economic redevelopment and growth  
11 grant incentive area a municipality that has entered into a local  
12 redevelopment incentive grant agreement may pledge eligible  
13 revenues it is authorized to collect as follows:

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

19 (2) incremental revenues collected from payroll taxes, with  
20 respect to business activities carried on within the area, pursuant to  
21 section 15 of P.L.1970, c.326 (C.40:48C-15);

22 (3) incremental revenue from lease payments made to the  
23 municipality, the developer, or the developer's successors with  
24 respect to property located in the area;

25 (4) incremental revenue collected from parking taxes derived  
26 from parking facilities located within the area pursuant to section 7  
27 of P.L.1970, c.326 (C.40:48C-7);

28 (5) incremental admissions and sales taxes derived from the  
29 operation of a public facility within the area pursuant to section 1 of  
30 P.L.2007, c.302 (C.40:48G-1);

31 (6) (a) incremental sales and excise taxes which are derived  
32 from activities within the area and which are rebated to or retained  
33 by the municipality pursuant to the "New Jersey Urban Enterprise  
34 Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law  
35 providing for such rebate or retention;

36 (b) within Planning Area 1 (Metropolitan) under the State  
37 Development and Redevelopment Plan adopted pursuant to the  
38 "State Planning Act," sections 1 through 12 of P.L.1985, c.398  
39 (C.52:18A-196 et seq.), a municipality may impose the entire State  
40 sales tax on business activities within a redevelopment project  
41 located in an urban enterprise zone that would ordinarily be entitled  
42 to collect reduced rate revenues under section 21 of P.L.1983, c.303  
43 (C.52:27H-80), and pledge the excess revenues to a local  
44 redevelopment incentive grant agreement;

45 (7) incremental parking revenue collected, pursuant to section 7  
46 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built  
47 as part of a redevelopment project, except for public parking

1 facilities owned by parking authorities pursuant to the "Parking  
2 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

3 (8) incremental revenues collected, pursuant to section 3 of  
4 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),  
5 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel  
6 taxes;

7 (9) upon approval by the Local Finance Board, other  
8 incremental municipal revenues that may become available;

9 (10) the property tax increment.

10 The incremental revenue for the revenues listed in this  
11 subsection, when applicable, shall be calculated as the difference  
12 between the amount collected in any fiscal year from any eligible  
13 revenue source included in the local redevelopment incentive grant  
14 agreement, less the revenue increment base for that eligible  
15 revenue.

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

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

24 The full incremental value of a project area shall be included in  
25 the value used for county and regional school tax apportionment  
26 until such time that the Director of the Division of Taxation in the  
27 Department of the Treasury can certify that property tax  
28 management systems are capable of handling the technical and legal  
29 requirements of treating parcels in areas of redevelopment as  
30 exempt from county and regional school apportionment.

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

39 g. (1) A developer that has entered into a redevelopment  
40 incentive grant agreement with a municipality pursuant to this  
41 section may, upon notice to and consent of the municipality, pledge  
42 and assign as security or support for any loan or bond, any or all of  
43 its right, title and interest in and to such agreements and in the  
44 incentive grants payable thereunder, and the right to receive same,  
45 along with the rights and remedies provided to the developer under  
46 such agreement. Any such assignment shall be an absolute  
47 assignment for all purposes, including the federal bankruptcy code.

