

[First Reprint]

SENATE, No. 2583

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED FEBRUARY 21, 2013

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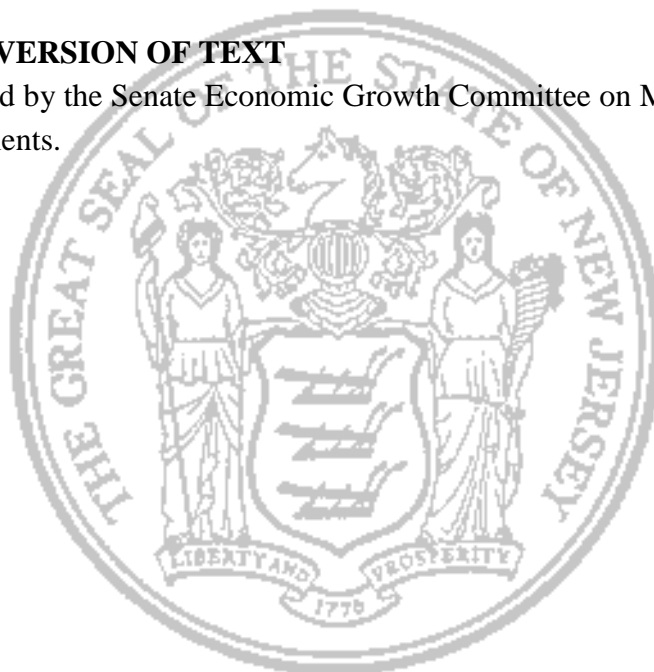
Senators Oroho, Bateman, Whelan, Pou and Turner

SYNOPSIS

“New Jersey Economic Opportunity Act of 2013”; provides incentives for certain economic development projects.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on March 11, 2013, with amendments.



(Sponsorship Updated As Of: 6/25/2013)

1 AN ACT concerning incentives for certain economic development
 2 projects and ¹[affordable housing,] amending various parts of
 3 the statutory law ¹[, and supplementing Title 55 of the Revised
 4 Statutes]¹.

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

8
 9 1. (New section) ¹[Sections 1 through 21 of this] This¹ act
 10 shall be known and may be cited as the “New Jersey Economic
 11 Opportunity Act of 2013.”

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

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

35 b. (1) To the extent that an application under P.L.1996, c.25
 36 (C.34:1B-112 et seq.) has been received by the authority prior to the
 37 effective date of the “New Jersey Economic Opportunity Act of
 38 2013,” ¹[sections 1 through 21 of] P.L. , c. (C.) (pending
 39 before the Legislature as this bill), and, to the extent that there
 40 remains sufficient financial authorization for the grant of tax
 41 credits, the authority is authorized to consider such application in
 42 the same manner as had previously been provided and to make a
 43 grant of tax credits to eligible applicants, provided that the authority
 44 shall take final action on such grant of tax credits no later than 180

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted March 11, 2013.

1 calendar days after the effective date of the “New Jersey Economic
2 Opportunity Act of 2013,” ¹ [sections 1 through 21 of] ¹ P.L. ,
3 c. (C.) (pending before the Legislature as this bill).

4 (2) A business shall apply for a grant of tax credits under the
5 Business Retention and Relocation Assistance Grant Program prior
6 to the effective date of the “New Jersey Economic Opportunity Act
7 of 2013,” ¹ [sections 1 through 21 of] ¹ P.L. , c. (C.)
8 (pending before the Legislature as this bill), and shall submit its
9 documentation for approval of a grant of tax credits no later than
10 July 1, 2013.

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

20
21 3. Section 4 of P.L.1996, c.26 (C.34:1B-127) is amended to
22 read as follows:

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

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

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

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

47 d. (1) To the extent that an application under P.L.1996, c.26
48 (C.34:1B-124 et seq.) has been received by the authority prior to the

1 effective date of the “New Jersey Economic Opportunity Act of
2 2013,” ¹ [sections 1 through 21 of] P.L. , c. (C.) (pending
3 before the Legislature as this bill), and, to the extent that there
4 remains sufficient financial authorization for the grant, the authority
5 is authorized to consider such application in the same manner as
6 had previously been provided and to make a grant to eligible
7 applicants, provided that the authority shall take final action on
8 such grant no later than 180 calendar days after the effective date of
9 the “New Jersey Economic Opportunity Act of 2013,” ¹ [sections 1
10 through 21 of] P.L. , c. (C.) (pending before the
11 Legislature as this bill).

12 (2) A business shall apply for a grant under the Business
13 Employment Incentive Program prior to the effective date of the
14 “New Jersey Economic Opportunity Act of 2013,” ¹ [sections 1
15 through 21 of] P.L. , c. (C.) (pending before the
16 Legislature as this bill), and shall submit its documentation for
17 approval of a grant no later than July 1, 2013.

18 (3) If any business has submitted an application under P.L.1996,
19 c.26 (C.34:1B-124 et seq.) and such application has not been
20 approved for any reason, such lack of approval shall not serve to
21 prejudice in any way the consideration of any new application as
22 may be submitted by a business for the provision of incentives
23 offered pursuant to the “New Jersey Economic Opportunity Act of
24 2013,” ¹ [sections 1 through 21 of] P.L. , c. (C.) (pending
25 before the Legislature as this bill).

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

27

28 4. Section 2 of P.L.2007, c.346 (C.34:1B-208) is amended to
29 read as follows:

30 2. As used in this act:

31 "Affiliate" means an entity that directly or indirectly controls, is
32 under common control with, or is controlled by the business.
33 Control exists in all cases in which the entity is a member of a
34 controlled group of corporations as defined pursuant to section 1563
35 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the
36 entity is an organization in a group of organizations under common
37 control as defined pursuant to subsection (b) or (c) of section 414 of
38 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer
39 may establish by clear and convincing evidence, as determined by
40 the Director of the Division of Taxation in the Department of the
41 Treasury, that control exists in situations involving lesser
42 percentages of ownership than required by those statutes. An
43 affiliate of a business may contribute to meeting either the qualified
44 investment or full-time employee requirements of a business that
45 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
46 209).

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

3 "Business" means a corporation that is subject to the tax imposed
4 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a
5 corporation that is subject to the tax imposed pursuant to sections 2
6 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
7 P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, or is a partnership,
8 an S corporation, or a limited liability corporation. A business shall
9 include an affiliate of the business if that business applies for a
10 credit based upon any capital investment made by or full-time
11 employees of an affiliate.

12 "Capital investment" in a qualified business facility means
13 expenses incurred after, but before the end of the eighth year after,
14 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) for: a.
15 the site preparation and construction, repair, renovation,
16 improvement, equipping, or furnishing of a building, structure,
17 facility or improvement to real property; **and** or b. obtaining and
18 installing furnishings and machinery, apparatus or equipment for
19 the operation of a business on real property or in a building,
20 structure, facility or improvement to real property.

21 "Eligible municipality" means a municipality: (1) which qualifies
22 for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) or
23 which was continued to be a qualified municipality thereunder
24 pursuant to P.L.2007, c.111; and (2) in which 30 percent or more of
25 the value of real property was exempt from local property taxation
26 during tax year 2006. The percentage of exempt property shall be
27 calculated by dividing the total exempt value by the sum of the net
28 valuation which is taxable and that which is tax exempt.

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

1 et seq. "Full-time employee" shall not include any person who
2 works as an independent contractor or on a consulting basis for the
3 business. With respect to a maritime, manufacturing, or logistics
4 business located in a port district having a container terminal, full-
5 time employment shall include, but not be limited to, employees
6 that have been hired by way of a labor union hiring hall or its
7 equivalent. For the purposes of the foregoing sentence, 35 hours of
8 employment per week at a qualified business facility shall
9 constitute one "full-time employee," regardless of whether or not
10 the hours of work were performed by one or more persons.

11 "Mixed use project" means a project comprising both a qualified
12 business facility and a qualified residential project.

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

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

18 "Qualified business facility" means any building, complex of
19 buildings or structural components of buildings, and all machinery
20 and equipment located within a designated urban transit hub in an
21 eligible municipality, used in connection with the operation of a
22 business.

23 "Qualified residential project" shall have the meaning ascribed to
24 that term under section 34 of P.L.2009, c.90 (C.34:1B-209.2).

25 "Residential unit" means a residential dwelling unit such as a
26 rental apartment, a condominium or cooperative unit, a hotel room,
27 or a dormitory room.

28 "Urban transit hub" means:

29 a. (1) property located within a 1/2-mile radius surrounding the
30 mid point of a New Jersey Transit Corporation, Port Authority
31 Transit Corporation or Port Authority Trans-Hudson Corporation
32 rail station platform area, including all light rail stations, and

33 (2) property located within a one-mile radius of the mid point of
34 the platform area of such a rail station if the property is in a
35 qualified municipality under the "Municipal Rehabilitation and
36 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.) or
37 in an area that is the subject of a Choice Neighborhoods
38 Transformation Plan funded by the federal Department of Housing
39 and Urban Development, and

40 (3) the site of the campus of an acute care medical facility
41 located within a one-mile radius of the mid point of the platform
42 area of such a rail station, and

43 (4) the site of a closed hospital located within a one-mile radius
44 of the mid point of the platform area of such a rail station;

45 b. property located within a 1/2-mile radius surrounding the
46 mid point of one of up to two underground light rail stations'
47 platform areas that are most proximate to an interstate rail station;

1 c. property adjacent to, or connected by rail spur to, a freight
2 rail line if the business utilizes that freight line at any rail spur
3 located adjacent to or within a one-mile radius surrounding the
4 entrance to the property for loading and unloading freight cars on
5 trains;

6 which property shall have been specifically delineated by the
7 authority pursuant to subsection e. of section 3 of P.L.2007, c.346
8 (C.34:1B-209).

9 A property which is partially included within the radius shall
10 only be considered part of the urban transit hub if over 50 percent
11 of its land area falls within the radius.

12 "Rail station" shall not include any rail station located at an
13 international airport, except that any property within a 1/2-mile
14 radius surrounding the mid point of a New Jersey Transit
15 Corporation rail station platform area at an international airport
16 upon which a qualified business facility is constructed or renovated
17 commencing after the effective date of P.L.2011, c.149 (C.34:1B-
18 242 et al.) shall be deemed an urban transit hub, excluding any
19 property owned or controlled by the Port Authority of New York
20 and New Jersey.

21 (cf: P.L.2011, c.149, s.10)

22

23 5. 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, except as may be increased by the
39 authority as set forth in paragraph (9) of this subsection and section
40 35 of P.L.2009, c.90 (C.34:1B-209.3) ¹, as amended by the "New
41 Jersey Economic Opportunity Act of 2013," P.L. , c. (C.)
42 (pending before the Legislature as this bill)¹.

43 (2) A business, other than a tenant eligible pursuant to
44 paragraph (3) of this subsection, shall make or acquire capital
45 investments totaling not less than \$50,000,000 in a qualified
46 business facility, at which the business shall employ not fewer than
47 250 full-time employees to be eligible for a credit under this
48 section. A business that acquires a qualified business facility shall

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

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

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

36 (5) Full-time employment for an accounting or privilege period
37 shall be determined as the average of the monthly full-time
38 employment for the period.

39 (6) The capital investment of the owner of a qualified business
40 facility is that percentage of the capital investment made or
41 acquired by the owner of the building that the percentage of net
42 leasable area of the qualified business facility not leased to tenants
43 is of the total net leasable area of the qualified business facility.

44 (7) A business shall be allowed a tax credit of 100 percent of its
45 capital investment, made after the effective date of P.L.2011, c.89
46 but prior to its submission of documentation pursuant to subsection
47 c. of this section, in a qualified business facility that is part of a
48 mixed use project, provided that (a) the qualified business facility

1 represents at least \$17,500,000 of the total capital investment in the
2 mixed use project, (b) the business employs not fewer than 250 full-
3 time employees in the qualified business facility, and (c) the total
4 capital investment in the mixed use project of which the qualified
5 business facility is a part is not less than \$50,000,000. The
6 allowance of credits under this paragraph shall be subject to the
7 restrictions and requirements, to the extent that those are not
8 inconsistent with the provisions of this paragraph, set forth in
9 paragraphs (1) through (6) of this subsection, including but not
10 limited to the requirement that the business shall demonstrate to the
11 authority, at the time of application, that the State's financial
12 support of the proposed capital investment in a qualified business
13 facility will yield a net positive benefit to both the State and the
14 eligible municipality.

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

1 (9) Notwithstanding the limitations contained in paragraph (1)
2 of subsection a. of this section, the authority is authorized to
3 approve credits pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.)
4 for qualified business facilities in a value sufficient to meet the
5 requirements of all applications that have been ¹【deemed complete】
6 received¹ by the authority, but not yet presented to the authority’s
7 board for consideration, as of the effective date of the “New Jersey
8 Economic Opportunity Act of 2013,” ¹【sections 1 through 21 of】¹
9 P.L. , c. (C.) (pending before the Legislature as this bill) ¹;
10 provided, however, that the combined value of all tax credits
11 approved by the authority pursuant to this paragraph shall not
12 exceed \$300,000,000¹.

13 b. (1) To the extent that applications under P.L.2007, c.346
14 (C.34:1B-207 et seq.) have been received by the authority prior to
15 the effective date of the “New Jersey Economic Opportunity Act of
16 2013,” ¹【sections 1 through 21 of】¹ P.L. , c. (C.) (pending
17 before the Legislature as this bill), the authority is authorized to
18 consider such applications in the same manner as had previously
19 been provided and to make awards of tax credits to eligible
20 applicants provided that the authority must take final action on such
21 awards not later than 180 calendar days after the effective date of
22 the “New Jersey Economic Opportunity Act of 2013, ¹【sections 1
23 through 21 of】¹ P.L. , c. (C.) (pending before the
24 Legislature as this bill).

25 (2) A business shall apply for the credit under P.L.2007, c.346
26 (C.34:1B-207 et seq.) prior to **【July 1, 2014】** the effective date of
27 ¹【sections 1 through 21 of】 the “New Jersey Economic Opportunity
28 Act of 2013,”¹ P.L. , c. (C.) (pending before the
29 Legislature as this bill), and shall submit its documentation for
30 approval of its credit amount no later than July 28, 2017.

31 (3) If any business has submitted an application under P.L.2007,
32 c.346 (C.34:1B-207 et seq.) and such application has not been
33 approved for any reason, such lack of approval shall not serve to
34 prejudice in any way the consideration of any new application as
35 may be submitted by such project for the provision of incentives
36 offered pursuant to the “New Jersey Economic Opportunity Act of
37 2013,” ¹【sections 1 through 21 of】¹ P.L. , c. (C.) (pending
38 before the Legislature as this bill).

39 ¹(4) With respect to an application received by the authority, but
40 not yet presented to the authority’s board for consideration as of the
41 effective date of the “New Jersey Economic Opportunity Act of
42 2013,” P.L. , c. (C.) (pending before the Legislature as this
43 bill), for a qualified business facility that: (a) is located on or
44 adjacent to the campus of an acute care medical facility, the
45 minimum number of full-time employees required for eligibility
46 under the program may be employed by any number of tenants or
47 other occupants of the facility, in the aggregate, and the initial

1 satisfaction of such requirement following completion of the project
2 shall be deemed to satisfy the employment requirements of the
3 program in all respects; or (b) would replace a facility that has been
4 wholly or substantially damaged as a result of a federally-declared
5 disaster, the minimum capital investments in the facility shall total
6 not less than \$35,000,000 and the business shall employ not less
7 than 100 full-time employees in the facility, notwithstanding the
8 provisions of subsection a. of this section, and if the total capital
9 investment in the facility exceeds \$100,000,000, the net positive
10 benefit requirements of the program shall be deemed satisfied for
11 all purposes.¹

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

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

31 The credit amount that may be taken for a tax period of the
32 business that exceeds the final liabilities of the business for the tax
33 period may be carried forward for use by the business in the next 20
34 successive tax periods, and shall expire thereafter, provided that the
35 value of all credits approved by the authority against tax liabilities
36 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year
37 shall not exceed ~~【\$150,000,000】~~ \$250,000,000.

38 The amount of credit allowed for a tax period to a business that
39 is a tenant in a qualified business facility shall not exceed the
40 business' total lease payments for occupancy of the qualified
41 business facility for the tax period.

42 (2) A business that is a partnership shall not be allowed a credit
43 under this section directly, but the amount of credit of an owner of a
44 business shall be determined by allocating to each owner of the
45 partnership that proportion of the credit of the business that is equal
46 to the owner of the partnership's share, whether or not distributed,
47 of the total distributive income or gain of the partnership for its tax
48 period ending within or with the owner's tax period, or that

1 proportion that is allocated by an agreement, if any, among the
2 owners of the partnership that has been provided to the Director of
3 the Division of Taxation in the Department of the Treasury by such
4 time and accompanied by such additional information as the
5 director may require.

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

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

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

40 (3) If, in any tax period, (a) the number of full-time employees
41 employed by the business at the qualified business facility located
42 in an urban transit hub within an eligible municipality drops below
43 250, or (b) the number of full-time employees, who are not the
44 subject of intra-State job transfers, pursuant to paragraph (8) of
45 subsection a. of this section, employed by the business at any other
46 business facility in the State, whether or not located in an urban
47 transit hub within an eligible municipality, drops by more than 20
48 percent from the number of full-time employees in its workforce in

1 the last tax accounting or privilege period prior to the credit amount
2 approval under this section, then the business shall forfeit its credit
3 amount for that tax period and each subsequent tax period, until the
4 first tax period for which documentation demonstrating the
5 restoration of the number of full-time employees employed by the
6 business at the qualified business facility to 250 or an increase
7 above the 20 percent reduction has been reviewed and approved by
8 the authority, for which tax period and each subsequent tax period
9 the full amount of the credit shall be allowed.

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

16 (ii) If a tenant subleases its tenancy in whole or in part during
17 the 10-year eligibility period the new tenant shall not acquire the
18 credit of the sublessor, and the sublessor tenant shall forfeit all
19 credits for the tax period of its sublease and all subsequent tax
20 periods.

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

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

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

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

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

30

31 7. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to
32 read as follows:

33 35. a. (1) A developer, upon application to and approval from
34 the authority, shall be allowed a credit of up to 35 percent of its
35 capital investment, made after the effective date of P.L.2009, c.90
36 (C.52:27D-489a et al.) but prior to its submission of documentation
37 pursuant to subsection c. of this section, in a qualified residential
38 project, pursuant to the restrictions and requirements of this section.
39 To be eligible for any tax credits authorized under this section, a
40 developer shall demonstrate to the authority, through a project pro
41 forma analysis at the time of application, that the qualified
42 residential project is likely to be realized with the provision of tax
43 credits at the level requested but is not likely to be accomplished by
44 private enterprise without the tax credits. The value of all credits
45 approved by the authority pursuant to **[P.L.2009, c.90 (C.52:27D-**
46 **489a et al.)]** this section for qualified residential projects may be up
47 to \$150,000,000, except as may be increased by the authority as set
48 forth below ¹and as set forth in paragraph (5) of this subsection¹

1 and the additional ~~“\$750,000,000”~~ \$600,000,000¹ authorized by
2 section 18 of P.L. , c. (C.) (pending before the Legislature
3 as this bill); provided, however, that the combined value of all
4 credits approved by the authority pursuant to both P.L.2007, c.346
5 (C.34:1B-207 et seq.) and [P.L.2009, c.90 (C.52:27D-489a et al.)]
6 this section shall not exceed ~~“\$1,750,000,000”~~ ¹~~“\$2,500,000,000”~~
7 \$2,350,000,000, as shall be increased pursuant to paragraph (5) of
8 this subsection and section 3 of P.L.2007, c.346 (C.34:1B-209), as
9 amended by the “New Jersey Economic Opportunity Act of 2013,”
10 P.L. , c. (C.) (pending before the Legislature as this bill)¹.

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

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

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

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

41 (a) A developer shall be allowed a credit in accordance with this
42 section for a qualified residential project that includes a mixed use
43 project.

44 (b) A developer shall be allowed a credit of up to 35 percent of
45 its capital investment, made after the effective date of P.L.2011,
46 c.89 but prior to its submission of documentation pursuant to
47 subsection c. of this section, in a qualified residential project that is
48 part of a mixed use project, provided that: (a) the capital

1 investment in the qualified residential project represents at least
2 \$17,500,000 of the total capital investment in the mixed use project;
3 and (b) the total capital investment in the mixed use project of
4 which the qualified residential project is a part is not less than
5 \$50,000,000. The allowance of credits under this paragraph shall
6 be subject to the restrictions and requirements, to the extent that
7 those are not inconsistent with the provisions of this paragraph, set
8 forth in paragraphs (1) through (3) of this subsection, including but
9 not limited to the requirement prescribed in paragraph (1) of this
10 subsection that the developer shall demonstrate to the authority,
11 through a project pro forma analysis at the time of application, that
12 the qualified residential project is likely to be realized with the
13 provision of tax credits at the level requested but is not likely to be
14 accomplished by private enterprise without the tax credits.

15 As used in this subparagraph:

16 "Mixed use project" means a project comprising both a qualified
17 residential project and a qualified business facility.

18 (5) Notwithstanding the limitations contained in paragraph (1)
19 of subsection a. of this section, the authority is authorized to
20 approve credits under this section for qualified residential projects
21 in a value sufficient to meet the requirements of all applications
22 deemed complete that were received by the authority between
23 October 24, 2012 and December 21, 2012¹; provided, however,
24 that the combined value of all tax credits approved by the authority
25 pursuant to this paragraph shall not exceed \$200,000,000¹.

26 b. (1) To the extent that applications under this section were
27 received by the authority prior to December 21, 2012, the authority
28 is authorized to consider such applications in the same manner as
29 had previously been provided and to make awards of tax credits to
30 eligible applicants, provided that the authority must take final
31 action on such awards not later than 180 calendar days after the
32 effective date of the "New Jersey Economic Opportunity Act of
33 2013,"¹ 【sections 1 through 21】¹ P.L. , c. (C.) (pending
34 before the Legislature as this bill).

35 (2) A developer shall apply for the credit under this section prior
36 to ~~【July 1, 2014】~~ December 21, 2012, and a developer shall submit
37 its documentation for approval of its credit amount no later than
38 ~~【July 28, 2017】~~ April 26, 2017.

39 (3) If a developer has submitted an application under this
40 section and such application has not been approved for any reason,
41 such lack of approval shall not serve to prejudice in any way the
42 consideration of any new application as may be submitted by such
43 project for the provision of incentives offered pursuant to the "New
44 Jersey Economic Opportunity Act of 2013,"¹ 【sections 1 through
45 21】¹ P.L. , c. (C.) (pending before the Legislature as this
46 bill).

1 c. The credit shall be administered in accordance with the
2 provisions of subsections c. and e. of section 3 of P.L.2007, c.346
3 (C.34:1B-209), as amended by section 32 of P.L.2009, c.90, and
4 section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that (1) all
5 references therein to "business" and "qualified business facility"
6 shall be deemed to refer respectively to "developer" and "qualified
7 residential project," as such terms are defined in section 34 of
8 P.L.2009, c.90 (C.34:1B-209.2) and (2) all references therein to
9 credits claimed by tenants and to reductions or disqualifications in
10 credits as determined by annual review of the authority shall be
11 disregarded. Provided however, for purposes of a "mixed use
12 project" as that term is used and defined pursuant to subparagraph
13 (b) of paragraph (4) of subsection a. of this section, "qualified
14 business facility" means that term as defined pursuant to section 2
15 of P.L.2007, c.346 (C.34:1B-208).
16 (cf: P.L.2012, c.35, s.2)

17

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

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

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

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

39 "Business" means an owner or tenant of a qualified business
40 facility that is a corporation that is subject to the tax imposed
41 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a
42 corporation that is subject to the tax imposed pursuant to sections 2
43 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
44 P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, or is a partnership,
45 an S corporation, **[or]** a limited liability corporation, or a non-profit
46 corporation. A business shall include an affiliate of the business if
47 that business applies for a credit based upon any capital investment
48 made by or full-time employees of an affiliate.

1 "Capital investment" in a qualified business facility means
2 expenses by a business or any affiliate of the business incurred after
3 application **],** but before the end of the tenth year after, the effective
4 date of P.L.2011, c.149 (C.34:1B-242 et al.)**]** for: a. site preparation
5 and construction, repair, renovation, improvement, equipping, or
6 furnishing on real property or of a building, structure, facility, or
7 improvement to real property; **[and]** ¹**[or]** b. obtaining and
8 installing furnishings and machinery, apparatus, or equipment for
9 the operation of a business on real property or in a building,
10 structure, facility, or improvement to real property ¹; or c. the
11 aforementioned activity as described in both subsections a. and b. of
12 this definition¹. In addition to the foregoing, if a business acquires
13 or leases a qualified business facility, the capital investment made
14 or acquired by the seller or owner, as the case may be, if pertaining
15 primarily to the premises of the qualified business facility being
16 acquired or leased by the business, shall be considered a capital
17 investment by the business and, if pertaining generally to the
18 qualified business facility, shall be allocated to the premises of the
19 qualified business facility being acquired or leased on the basis of
20 the gross leasable area of such premises in relation to the total gross
21 leasable in the qualified business facility. The capital investment
22 described herein may include any capital investment made or
23 acquired prior to the date of application so long as the amount of
24 capital investment made or acquired by the business, any affiliate of
25 the business, or any owner after the date of application equals at
26 least 50 percent of the amount of capital investment, allocated to the
27 premises of the qualified business facility being acquired or leased
28 on the basis of the gross leasable area of such premises in relation
29 to the total gross leasable in the qualified business facility, made or
30 acquired prior to the date of application.

31 "Commitment duration" means the period of time that is 1.5
32 times the eligibility period.

33 "Deep poverty pocket" means ¹**[any]** a population¹ census tract
34 ¹**[determined by the United States Census Bureau as having, at the**
35 **time of an application for a project, an average federal poverty level**
36 **of 20 percent or more and which has been determined by the**
37 **authority to be an area in need of economic development incentive**
38 **assistance]** in this State, or in the case of an area which is not
39 traced for population census tracts, the equivalent county division
40 in this State, in which the poverty rate for that tract is not less than
41 20 percent and 50 percent or more of the households in that tract
42 have an income equal to or less than 60 percent of the area median
43 gross income if the tract is located within a metropolitan area, or the
44 median household income in that tract does not exceed 80 percent
45 of the Statewide median household income if the tract is not located
46 within a metropolitan area¹ .

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 ¹and which has been determined by
4 the authority to be an area appropriate for development and in need
5 of economic development incentive assistance¹ .

6 “Distressed municipality” means a municipality qualified to
7 receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
8 municipality under the supervision of the Local Finance Board
9 pursuant to the provisions of the "Local Government Supervision
10 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a SDA
11 municipality, a municipality in which a major rail station is located,
12 ¹[or] a municipality identified by the Director of the Division of
13 Local Government Services in the Department of Community
14 Affairs to be facing serious fiscal distress ¹, or a municipality that
15 includes an Historically Underutilized Business Zone as that term is
16 defined by subsection (p) of section 3 of Pub.L. 85-536 (15 U.S.C.
17 s.632), an Urban Empowerment Zone or Urban Enterprise
18 Community as designated by the Secretary of the United States
19 Department of Housing and Urban Development, or a Rural
20 Empowerment Zone or Rural Enterprise Community as designated
21 by the Secretary of the United States Department of Agriculture¹ ,
22 but excluding a municipality qualifying under section 2 of
23 P.L.2007, c.346 (C.34:1B-208).

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

32 "Eligible position" means a full-time [employee] position
33 [retained or created by] in a business in this State [for which a
34 business provides employee health benefits under a group health
35 plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),
36 a health benefits plan as defined under section 1 of P.L.1992, c.162
37 (C.17B:27A-17), or a policy or contract of health insurance
38 covering more than one person issued pursuant to Article 2 of
39 chapter 27 of Title 17B of the New Jersey Statutes] which the
40 business has filled with a full-time employee. With respect to a
41 maritime, manufacturing, or logistics business ¹, excluding a
42 primarily warehouse or distribution business,¹ located in a port
43 district having a container terminal, the requirement that employee
44 health benefits are to be provided shall be deemed to be satisfied if
45 such benefits are provided in accordance with industry practice by a
46 third party obligated to provide such benefits pursuant to a
47 collective bargaining agreement. ¹With respect to a maritime

1 business in a port district, “eligible position” shall include a full-
2 time employee that is filled by a tenant of the maritime business.¹
3 "Full-time employee" means a person employed by the business
4 for consideration for at least 35 hours a week, or who renders any
5 other standard of service generally accepted by custom or practice
6 as full-time employment, or a person who is employed by a
7 professional employer organization pursuant to an employee leasing
8 agreement between the business and the professional employer
9 organization, in accordance with P.L.2001, c.260 (C.34:8-67 et
10 seq.) for at least 35 hours a week, or who renders any other standard
11 of service generally accepted by custom or practice as full-time
12 employment, and whose wages are subject to withholding as
13 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
14 et seq. or **an employee** a person who is a resident of another State
15 but whose income is not subject to the "New Jersey Gross Income
16 Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business
17 who works for the partnership for at least 35 hours a week, or who
18 renders any other standard of service generally accepted by custom
19 or practice as full-time employment, and whose distributive share of
20 income, gain, loss, or deduction, or whose guaranteed payments, or
21 any combination thereof, is subject to the payment of estimated
22 taxes, as provided in the "New Jersey Gross Income Tax Act,"
23 N.J.S.54A:1-1 et seq., with a person to be provided, by the business,
24 with employee health benefits under a ¹group health plan as
25 defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health
26 benefits plan as defined under section 1 of P.L.1992, c.162
27 (C.17B:27A-17), or a policy or contract of health insurance
28 covering more than one person issued pursuant to Article 2 of
29 chapter 27 of Title 17B of the New Jersey Statutes **health benefits**
30 plans authorized pursuant to State or federal law¹ . With respect to
31 a maritime, manufacturing, or logistics business ¹, excluding a
32 primarily warehouse or distribution business,¹ located in a port
33 district having a container terminal, full-time employment shall
34 include, but not be limited to, employees that have been hired by
35 way of a labor union hiring hall or its equivalent. For purposes of
36 the foregoing sentence, 35 hours of employment per week at a
37 qualified business facility shall constitute one “full-time employee,”
38 regardless of whether or not the hours of work were performed by
39 one or more persons. Also, with respect to the maritime,
40 manufacturing, and logistics industries, ¹excluding a primarily
41 warehouse or distribution business,¹ the requirement that employee
42 health benefits are to be provided shall be deemed to be satisfied if
43 such benefits are provided in accordance with industry practice by a
44 third party obligated to provide such benefits pursuant to a
45 collective bargaining agreement. "Full-time employee" shall not
46 include any person who works as an independent contractor or on a
47 consulting basis for the business.

1 “Incentive agreement” means the contract between the business
2 and the authority, which sets forth the terms and conditions under
3 which the business shall be eligible to receive incentives authorized
4 pursuant to the “New Jersey Economic Opportunity Act of 2013,”
5 1[sections 1 through 21]1 P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 “Incentive effective date” means the date the authority issues the
8 tax credit based on the documentation submitted by the business
9 pursuant to paragraph (1) of subsection b. of section 6 of P.L.2011,
10 c.149 (C.34:1B-247).

11 “Major rail station” means a railroad station which provides
12 access to the public to a minimum of seven commuter rail lines.

13 1“Mega project” means a qualified business facility which is: a.
14 located in a port district housing a business in the logistics,
15 manufacturing, or maritime industries, having a capital investment
16 in excess of \$20,000,000, or a qualified business facility in an urban
17 transit hub municipality housing a business of any kind, having a
18 capital investment in excess of \$50,000,000; and b. at which more
19 than 250 full-time employees of a business are created or retained.1

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

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

32 “Other eligible areas” means any qualified incentive area other
33 than a site in an urban transit hub municipality, a site in a distressed
34 municipality, a site in the port district 1[housing a port district
35 project]1 , or a site in other priority areas.

36 “Other priority areas” means any area, other than a site in an
37 urban transit hub municipality or a site in a distressed municipality
38 or a site in the port district 1[housing a port district project]1 ,
39 designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as
40 Planning Area 1 (Metropolitan), Planning Area 2 (Suburban) as
41 well as any location in the State that is a deep poverty pocket, a
42 designated center or a designated growth center in an endorsed plan,
43 the site of a proposed qualified incubator facility, transit oriented
44 development, disaster recovery project, tourism destination project,
45 federally owned land approved for closure under a federal Base
46 Realignment Closing Commission action, any vacant commercial
47 building having over 400,000 square feet of office, laboratory, or

1 industrial space available for occupancy for a period of over one
2 year or any site that has been negatively impacted by the approval
3 of a “qualified business facility,” as defined pursuant to section 2 of
4 P.L.2007, c.346 (C.34:1B-208).

5 "Partnership" means an entity classified as a partnership for
6 federal income tax purposes.

7 “Port district” means the port district of the Port Authority of
8 New York and New Jersey, as defined in Article II of the Compact
9 Between the States of New York and New Jersey of 1921, or within
10 the South Jersey Port District established pursuant to “The South
11 Jersey Port Corporation Act,” P.L.1968, c.60 (C.12:11A-1 et. seq.).

12 ¹“Port district project” means a qualified business facility
13 located in a port district having a capital investment in excess of
14 \$50,000,000 and at which more than 250 full-time employees of a
15 business in the logistics, manufacturing, or maritime industries are
16 created or retained.¹

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

20 "Program" means the "Grow New Jersey Assistance Program"
21 established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244),
22 as amended by the “New Jersey Economic Opportunity Act of
23 2013,” ¹【sections 1 through 21】¹ P.L. , c. (C.) (pending
24 before the Legislature as this bill).

25 "Qualified business facility" means any building, complex of
26 buildings or structural components of buildings, and all machinery
27 and equipment located within a qualified incentive area, used in
28 connection with the operation of a business ¹, that is not engaged in
29 retail sales, insurance, banking, or lending, or the provision of
30 professional services by an accountant, attorney, or physician¹ .

31 "Qualified incentive area" means **【an】** any area designated
32 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning
33 Area 1 (Metropolitan), Planning Area 2 (Suburban), **【or any urban,**
34 regional, or town**】** Planning Area 3 (Fringe Planning Area), or
35 Planning Area 4A (Rural Planning Area), a designated center under
36 the State Development and Redevelopment Plan **【**;
37 for development pursuant to**】** ; or a designated growth center in an
38 endorsed plan until June 30, 2013, or until the State Planning
39 Commission revises and readopts New Jersey’s State Strategic Plan
40 and adopts regulations to revise this definition as it pertains to
41 Statewide planning areas, whichever is later; a smart growth area
42 and planning area designated in a master plan adopted by the New
43 Jersey Meadowlands Commission pursuant to subsection (i) of
44 section 6 of P.L.1968, c.404 (C.13:17-6) **【or subject to a**
45 redevelopment plan adopted by the New Jersey Meadowlands
46 Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-
47 21); any land owned by the New Jersey Sports and Exposition

1 Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et
2 seq.), within the boundaries of the Hackensack Meadowlands
3 District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4); a
4 pinelands regional growth area, a pinelands town management area,
5 a pinelands village, or a military and federal installation area
6 established pursuant to the pinelands comprehensive management
7 plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); an
8 area designated for development, redevelopment, or economic
9 growth within the Highlands Region; federally owned land
10 approved for closure under any federal Base Closure and
11 Realignment Commission action]; a regional growth area, village,
12 and town, designated in the comprehensive management plan
13 prepared and adopted by the Pinelands Commission pursuant to
14 section 7 of the "Pinelands Protection Act," P.L.1979, c.111
15 (C.13:18A-8); the planning area of the Highlands Region as defined
16 in section 3 of the "Highlands Water Protection and Planning Act,"
17 P.L.2004, c.120 (C.13:20-3), and any Highlands center designated
18 by the Highlands Water Protection and Planning Council,
19 established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an
20 urban enterprise zone designated pursuant to P.L.1983, c.303
21 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an
22 area determined to be in need of redevelopment pursuant to sections
23 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) and as
24 approved by the Department of Community Affairs; or similar area
25 designated by the Department of Environmental Protection.
26 "Qualified incentive area" shall not include an area designated
27 pursuant to the State Development and Redevelopment Plan
28 adopted, as of the effective date of P.L.2008, c.78, pursuant to
29 P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 4B
30 (Rural/Environmentally Sensitive) or Planning Area 5
31 (Environmentally Sensitive), except for any area within Planning
32 Area 4B or Planning Area 5 that is a deep poverty pocket, a
33 designated center or a designated growth center in an endorsed plan,
34 the site of a qualified incubator facility, transit oriented
35 development, disaster recovery project, ¹[port district] mega¹
36 project, tourism destination project, or any federally owned land
37 approved for closure under a federal Base Realignment Closing
38 Commission action, or any [property consisting of a] vacant
39 commercial building having over 400,000 square feet of office,
40 laboratory, or industrial space available for occupancy for a period
41 of over one year or [is] any site that has been negatively impacted
42 by the approval of a "qualified business facility," as defined
43 pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

44 "Qualified incubator facility" means a commercial building
45 ¹located near and collaborating with a research institution, teaching
46 hospital, college, or university¹ having over 100,000 square feet of
47 office, laboratory, or industrial space with at least 75 percent of its

1 gross leasable area restricted to use by a technology startup
2 company during the period established pursuant to section 4 of
3 P.L.2011, c.149 (C.34:1B-245).

4 "Retained full-time job" means an eligible position that currently
5 exists in New Jersey and is filled by a full-time employee but
6 which, because of a potential relocation by the business, is at risk of
7 being lost to another state or country. For the purposes of
8 determining a number of retained full-time jobs, the eligible
9 positions of an affiliate shall be considered eligible positions of the
10 business.

11 "SDA district" means the 31 school districts as designated
12 pursuant to P.L.2000, c.72 (C.18A:7G-1 et. seq.).

13 "SDA municipality" means a municipality in which all public
14 school students attend school in a SDA district.

15 ¹"Targeted industry" means any industry identified from time to
16 time by the authority including initially, a transportation,
17 manufacturing, logistics, life sciences, technology, health, and
18 finance business but, excluding a primarily warehouse or
19 distribution business.¹

20 "Technology startup company" means a for profit business that
21 has ¹been in operation for less than five years and is developing or
22 possesses a proprietary technology or business method of a high-
23 technology or life science-related product, process, or service which
24 the business intends to move to commercialization] an equity
25 capitalization, net assets, or written commitments of less than
26 \$500,000 in the form of cash or cash equivalents, has been in
27 operation for no more than 15 years, employs no more than 250
28 employees, is primarily engaged in biotechnology research,
29 development, or production which it intends to move to
30 commercialization, is without a property tax delinquency for
31 property in this State, and is not a delinquent taxpayer for the
32 purposes of any State taxes¹.

33 "Tourism destination project" means a qualified business facility
34 that will be among the most visited privately owned or operated
35 tourism or recreation sites in the State as determined at the
36 discretion of the authority.

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

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

1 the sum of the net valuation which is taxable and that which is tax
2 exempt.

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

4

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

7 3. a. The Grow New Jersey Assistance Program is hereby
8 established as a program under the jurisdiction of the New Jersey
9 Economic Development Authority and shall be administered by the
10 authority. The purpose of the program is to encourage economic
11 development and job creation and to preserve jobs that currently
12 exist in New Jersey but which are in danger of being relocated
13 outside of the State. To implement this purpose, **[**and to the extent
14 that funding for the program is available,**]** the program may provide
15 tax credits to eligible businesses for an eligibility period not to
16 exceed 10 years. To be eligible for any tax credits pursuant to
17 P.L.2011, c.149 (C.34:1B-242 et al.), as amended by the “New
18 Jersey Economic Opportunity Act of 2013,” ¹**[**sections 1 through
19 **21]**¹ P.L. , c. (C.) (pending before the Legislature as this
20 bill), a business's chief executive officer or equivalent officer shall
21 demonstrate to the authority, at the time of application, that: (1) the
22 business, expressly including its landlord or seller, will make,
23 acquire, or lease a capital investment **[**of at least \$20,000,000**]**
24 equal to, or greater than, the applicable amount set forth in
25 subsection b. of this section at a qualified business facility at which
26 it will; (a) employ **[**at least 100 full-time employees in**]** retained
27 full-time jobs in an amount equal to or greater than the applicable
28 number set forth in subsection c. of this section **[, or]** ; (b) create
29 **[**at least 100**]** new full-time jobs **[**in an industry identified by the
30 authority as desirable for the State to maintain or attract; (2)**]** in an
31 amount equal to or greater than the applicable number set forth in
32 subsection c. of this section; or (c) employ a combination of
33 retained and new full-time jobs in an amount equal to or greater
34 than the applicable number set forth in subsection c. of this section;
35 (2) the qualified business facility shall be constructed in accordance
36 with the minimum environmental and sustainability standards
37 established pursuant to the “New Jersey Economic Opportunity Act
38 of 2013,” ¹**[**sections 1 through 21**]**¹ P.L. , c. (C.) (pending
39 before the Legislature as this bill) ¹and that , pursuant to section 1
40 of P.L.1979, c.303 (C.34:1B-5.1), not less than the prevailing wage
41 rate be paid to workers employed in the performance of any
42 construction contract for work at the qualified business facility¹; (3)
43 the capital investment resultant from the award of tax credits and
44 the resultant retention and creation of eligible positions will yield a
45 net positive benefit to the State ¹, equaling at least 110 percent of
46 the requested tax credit allocation amount, which determination
47 shall be based on the benefits generated during the first 20 years

1 following the completion of the project, except that for a mega
2 project, the determination shall be based on the benefits generated
3 during a period of up to 35 years following the completion of the
4 project, as determined by the authority¹; and, ¹(4)¹ except as
5 provided in subsection [d.] f. of this section [, (3)] ¹[(4)]¹ the
6 award of tax credits will be a material factor in the business's
7 decision to create or retain the minimum number of new or retained
8 full-time jobs for eligibility under the program. ¹With respect to
9 the provisions of paragraph (3) of this subsection, in the case of a
10 maritime, manufacturing, or a logistics business, excluding a
11 primarily warehouse or distribution business, the authority may
12 award bonus points in its net positive benefit calculation, in its
13 discretion.¹

14 b. The minimum capital investment required to be eligible
15 under this program shall be as follows: (1) for the rehabilitation of
16 an existing industrial premises for continued industrial use by the
17 business, a minimum investment of \$10 per square foot of gross
18 leasable area; (2) for the new construction of an industrial premises
19 for industrial use by the business, a minimum investment of \$30 per
20 square foot of gross leasable area; (3) for the rehabilitation of an
21 existing non-industrial premises for continued non-industrial use by
22 the business, a minimum investment of \$20 per square foot of gross
23 leasable area; and (4) for the new construction of a non-industrial
24 premises for non-industrial use by the business, a minimum
25 investment of \$60 per square foot of gross leasable area.

26 c. The minimum number of new or retained full-time jobs
27 required to be eligible under this program shall be as follows: (1)
28 for a business that is a technology startup company, a minimum of
29 10 ¹new or 25 retained¹ full-time jobs; (2) for a business engaged
30 primarily in ¹[(manufacturing, a minimum of 25 full-time jobs; (3)
31 for a business engaged primarily in¹] a targeted industry other than
32 any industry included in ¹[(paragraphs] paragraph¹ (1) ¹[(or (2)]¹ of
33 this subsection, a minimum of ¹25 new or¹ 35 ¹retained¹ full-time
34 jobs; and ¹[(4)] (3)¹ for any other business, a minimum of ¹35 new
35 or¹ 50 ¹retained¹ full-time jobs.

36 d. To assist the authority in determining whether a proposed
37 capital investment will yield a net positive benefit, the business's
38 chief executive officer, or equivalent officer, shall submit a
39 certification to the authority indicating that any [(existing] retained
40 full-time jobs are at risk of leaving the State and the date or dates at
41 which it is expected that such retained full-time jobs would leave
42 the State, that any projected creation of new full-time jobs would
43 not occur but for the provision of tax credits under the program, and
44 that the business's chief executive officer, or equivalent officer, has
45 reviewed the information submitted to the authority and that the
46 representations contained therein are accurate. In the event that this
47 certification by the business's chief executive officer, or equivalent

1 officer, is found to be willfully false, the authority may revoke any
2 award of tax credits in their entirety, which revocation shall be in
3 addition to any other criminal or civil penalties that the business
4 and the officer may be subject to. When considering an application
5 involving intra-State job transfers, the authority shall require the
6 business to submit the following information as part of its
7 application: a full economic analysis of all locations under
8 consideration by the business; all lease agreements, ownership
9 documents, or substantially similar documentation for the business's
10 current in-State locations; and all lease agreements, ownership
11 documents, or substantially similar documentation for the potential
12 out-of-State location alternatives, to the extent they exist. Based on
13 this information, and any other information deemed relevant by the
14 authority, the authority shall independently verify and confirm, by
15 way of making a factual finding by separate vote of the authority's
16 board, the business's assertion that the jobs are actually at risk of
17 leaving the State and as to the date or dates that such jobs are at risk
18 of leaving the State, before a business may be awarded any tax
19 credits under this section.

20 **[c.] e.** A project that consists solely of point-of-final-purchase
21 retail facilities shall not be eligible for a grant of tax credits. If a
22 project consists of both point-of-final-purchase retail facilities and
23 non-retail facilities, only the portion of the project consisting of
24 non-retail facilities shall be eligible for a grant of tax credits. If a
25 warehouse facility is part of a point-of-final-purchase retail facility
26 and supplies only that facility, the warehouse facility shall not be
27 eligible for a grant of tax credits. For the purposes of this section,
28 catalog distribution centers shall not be considered point-of-final-
29 purchase retail facilities.

30 **[d.] f.** The authority may determine as eligible for tax credits
31 under the program any business that is required to respond to a
32 request for proposals and to fulfill a contract with the federal
33 government although the business's chief executive officer or
34 equivalent officer has not demonstrated to the authority that the
35 award of tax credits will be a material factor in the business's
36 decision to retain **[at least 100]** the minimum number of retained
37 full-time jobs, as otherwise required by **[paragraph (3) of**
38 **subsection a. of]** this section. The authority may, in its discretion,
39 consider the economic benefit of the retained jobs servicing the
40 contract in conducting a net benefit analysis required by paragraph
41 **[(2)] (3)** of subsection a. of this section. For the purposes of this
42 subsection, "retained full-time jobs" includes jobs that are at risk of
43 being eliminated. Applications to the authority for eligibility under
44 the program pursuant to the criteria set forth in this subsection shall
45 be completed by **[March]** July 31, **[2012]** 2013. Submission of a
46 proposal to the federal government prior to authority approval shall
47 not disqualify a business from the program.

1 ¹g. Nothing shall preclude a business from applying for tax
2 credits under the program for more than one project pursuant to one
3 or more applications.¹

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

5
6 10. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to
7 read as follows:

8 4. The authority shall require an eligible business to enter into
9 an incentive agreement prior to the issuance of tax credits. The
10 incentive agreement shall include, but shall not be limited to, the
11 following:

12 a. A detailed description of the proposed project which will
13 result in job creation or retention, and the number of new or
14 retained full-time **【employees】** jobs that are approved for tax
15 credits.

16 b. The **【term】** eligibility period of the tax credits, **【and】**
17 including the first year for which the tax credits may be claimed.

18 c. Personnel information that will enable the authority to
19 administer the program.

20 d. A requirement that the applicant maintain the project at a
21 location in New Jersey **【at least 1.5 times the number of years of**
22 **the term of the tax credits】** for the commitment duration, with at
23 least the minimum number of full-time employees as required by
24 **【section 6 of P.L.2011, c.149 (C.34:1B-247)】** subsection c. of
25 section 3 of this program and a provision to permit the authority to
26 recapture all or part of any tax **【credit】** credits awarded, at its
27 discretion, if the business does not remain **【at the site for the**
28 **required term】** in compliance with this provision during the period
29 of the commitment duration after the eligibility period has expired,
30 with such recapture to be calculated taking into account the number
31 of years that the business was in compliance under the commitment
32 duration.

33 e. A method for the business to certify that it has met the
34 capital investment and employment requirements of the program
35 pursuant to paragraph (1) of subsection a. of section 6 of this
36 program and to report annually to the authority the number of full-
37 time employees for which the tax credits are to be made.

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

40 g. A provision which permits the authority to amend the
41 agreement.

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

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

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

1 5. a. The **value** total amount of **each** tax credit for an
2 eligible business **shall be equal to \$5,000 per year for a period of**
3 **ten years** for each new or retained full-time job **determined by the**
4 **authority pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244) to**
5 **be located at the qualified business facility, subject to the provisions**
6 **of this section shall be as set forth in subsections b. through e. of**
7 this section. The total tax credit amount shall be calculated and
8 credited to the business annually for each year of the eligibility
9 period.

10 b. **In addition to any grant of tax credits determined pursuant**
11 **to subsection a. of this section, a bonus award of up to an additional**
12 **\$3,000 per job of the amount of the original tax credits may be**
13 **made to any eligible business as determined by the authority. In**
14 **making a bonus award to an eligible business, the authority shall**
15 **consider the following factors, such that whether the business: (1) is**
16 **an industry identified by the authority as desirable for the State to**
17 **maintain or attract; (2) locates or relocates to a location within a**
18 **qualified incentive area adjacent to, or within walking distance or**
19 **short-distance-shuttle service of, a public transit facility, as**
20 **determined by the authority, by regulation; (3) creates jobs using**
21 **full-time employees in eligible positions whose annual salaries,**
22 **according to the Department of Labor and Workforce Development,**
23 **are greater than the average full-time salary in this State; or (4) is**
24 **locating to a project site that is or has been negatively impacted by**
25 **the approval of a "qualified business facility," as defined pursuant**
26 **to section 2 of P.L.2007, c.346 (C.34:1B-208). The base amount**
27 **of the tax credit for each new or retained full-time job shall be as**
28 **follows: (1) for a qualified business facility located within an urban**
29 **transit hub municipality or a ¹port district mega¹ project, \$5,000**
30 **per year; (2) for a qualified business facility in a distressed**
31 **municipality, \$4,000 per year; (3) for a qualified business facility in**
32 **¹another priority area other priority areas¹ , ¹\$3,000¹ \$2,500¹**
33 **per year; and (4) for a qualified business facility in ¹another**
34 **eligible area other eligible areas¹ , ¹\$2,000¹ \$1,500¹ per year.**

35 c. **Notwithstanding the provisions of subsections a. and b. of**
36 **this section, (1) the amount of tax credits available to be applied by**
37 **the business annually shall not exceed the lesser of one tenth of the**
38 **capital investment certified by the authority pursuant to section 6 of**
39 **P.L.2011, c.149 (C.34:1B-247) or \$4,000,000, and (2) the number**
40 **of new full-time jobs for which a business receives a tax credit shall**
41 **not exceed the number of retained full-time jobs for which a**
42 **business receives a tax credit, unless the business qualifies by**
43 **creating at least 100 new full-time jobs in an industry identified by**
44 **the authority as desirable for the State to maintain or attract. In**
45 **addition to the base amount of the tax credit, the amount of the tax**
46 **credit to be awarded for each new or retained full-time job shall be**
47 increased if the qualified business facility meets any of the

1 following priority criteria ¹or other additional or replacement
2 criteria determined by the authority from time to time in response to
3 evolving economic or market conditions¹ : (1) for qualified business
4 facilities located in a deep poverty pocket or in an area that is the
5 subject of a Choice Neighborhoods Transformation Plan funded by
6 the federal Department of Housing and Urban Development, an
7 increase of \$1,500 per year; (2) ¹for a qualified business facility not
8 eligible for the increase set forth in paragraph (1) of this subsection
9 but located in an area that has been designated as an “urban
10 enterprise zone” pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.)
11 or in an area that has been determined to be an “area in need of
12 redevelopment” pursuant to P.L.1992, c.79 (C.40A;12-1 et seq.), an
13 increase of \$750 per year; (3)¹ for a qualified business facility
14 located in a qualified incubator facility, an increase of \$500 per
15 year; ¹[(3)] (4)¹ for a qualified business facility located in a mixed-
16 use development that incorporates sufficient workforce housing on
17 site to accommodate a minimum of 20 percent of the full-time
18 employees of the business, an increase of \$500 per year; ¹[(4)] (5)¹
19 for a qualified business facility located within a 1/2-mile radius
20 surrounding the mid-point of a New Jersey Transit Corporation,
21 Port Authority Transit Corporation, or Port Authority Trans-Hudson
22 Corporation rail, bus, or ferry station platform area, including all
23 light rail stations and property located within a one-mile radius of
24 the mid-point of the platform area of such a rail, bus, or ferry
25 station if the property is in a qualified municipality under the
26 “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002,
27 c.43 (C.52:27BBB-1 et seq.), or within a transit oriented
28 development, an increase of ¹[\$1,500] \$2,000¹ per year; ¹[(5)] (6)¹
29 for a qualified business facility not eligible for the increase set forth
30 in paragraph ¹[(4)] (5)¹ of this subsection and at which a shuttle
31 service is available to a commuter rail, bus, or ferry station during
32 rush hour periods on all business days during the commitment
33 period, an increase of ¹[\$500] \$1,000¹ per year, ¹[(6)] (7)¹ for a
34 qualified business facility whose location includes or is directly
35 connected by rail spur to a freight rail line if the applicant utilizes
36 that freight line as a regular part of the operation of its business
37 during the commitment period, an increase of ¹[\$1,500] \$2,000¹
38 per year; ¹[(7)] (8)¹ for a qualified business facility not eligible for
39 the increase set forth in paragraph ¹[(6)] (7)¹ of this subsection and
40 whose location is within one mile of a freight rail line spur if the
41 applicant utilizes that freight line as a regular part of the operation
42 of its business during the commitment period, an increase of
43 ¹[\$500] \$1,000¹ per year; ¹[(8)] (9)¹ (a) for a qualified business
44 facility at which the capital investment in industrial premises for
45 industrial use by the business is in excess of the minimum amount
46 required for eligibility pursuant to this act, an increase ¹of¹ \$1,000
47 per year for each additional \$10 per square foot of gross leasable

1 area of investment above \$50 per square foot of gross leasable area,
2 excluding the cost of new construction with respect to capital
3 investment in qualified business facilities located in other eligible
4 areas, with a maximum increase of ¹["\$2,000"] \$5,000¹ per year ¹["
5 except that there shall be no maximum amount for a port district]
6 with respect to a mega¹ project ¹and \$3,000 per year for any other
7 facility¹ , (b) for a qualified business facility at which the capital
8 investment in any other commercial premises for commercial use by
9 the business is in excess of the minimum amount required for
10 eligibility pursuant to this program, an increase of \$1,000 per year
11 for each additional \$20 per square foot of gross leasable area of
12 investment above \$100 per square foot of gross leasable area,
13 excluding the cost of new construction with respect to capital
14 investment in qualified business facilities located in other eligible
15 areas, with a maximum increase of ¹["\$2,000"] \$5,000¹ per year
16 ¹with respect to a mega project and \$3,000 per year for any other
17 facility¹; ¹["(9)"] (10)¹ for a business that employs full-time
18 positions at the project with an average salary in excess of the
19 existing average salary for the county in which the project is
20 located, an increase of \$250 per year during the commitment period
21 for each 35 percent by which the project's average salary levels
22 exceeds the county average salary, with a maximum increase of
23 \$1,500 per year; ¹["(10)"] (11)¹ for a business that employs or retains
24 large numbers of new or existing full-time employees during the
25 commitment period, the increases shall be in accordance with the
26 following schedule: (a) if the number of qualified full-time
27 employees is between 251 and 400, \$500 per year; (b) if the number
28 of qualified full-time employees is between 401 and 600, \$750 per
29 year; (c) if the number of qualified full-time employees is between
30 601 and 800, \$1000 per year; (d) if the number of qualified full-
31 time employees is between 801 and 1,000, \$1,250 per year; (e) if
32 the number of qualified full-time employees is ¹["in excess of"]
33 between¹ 1,001 ¹[" , \$1,500 per year"] and 1,200, \$1,500 per year; (f)
34 if the number of qualified full-time employees is between 1,201 and
35 1,400, \$1,750 per year; (g) if the number of qualified full-time
36 employees is between 1,401 and 1,600, \$2,000 per year; (h) if the
37 number of qualified full-time employees is between 1,601 and
38 1,800, \$2,250 per year; (i) if the number of qualified full-time
39 employees is in excess of 1,800, \$2,500 per year¹ ; ¹["(11)"] (12)¹ for
40 a business in a targeted industry, an increase of \$500 per year;
41 ¹["(12)"] (13)¹ for a business that employs a significant number of
42 chronically unemployed or military veterans during the commitment
43 period, an increase of ¹["\$100"] \$200¹ per year for each 10 percent
44 of the new full-time employees that are either chronically
45 unemployed or military veterans, with a maximum increase of
46 ¹["\$500"] \$1,000¹ per year; and ¹["(13)"] (14)¹ for a qualified
47 business facility materially exceeding the minimum environmental

1 and sustainability standards by way of energy efficiency or
2 renewable energy features, measures, or upgrades, an increase of
3 \$250 per year; and ¹[(14)] (15)¹ for a qualified business facility
4 exceeding the Leadership in Energy and Environmental Design's
5 "Silver" rating standards, an additional increase of \$250 per year.

6 d. The gross amount of the tax credit for an eligible business
7 for each new or retained full-time job shall be the sum of the base
8 amount as pursuant to subsection b. of this section and the various
9 additional bonus amounts for which the business is eligible pursuant
10 to subsection c. of this section, subject to the following limitations
11 ¹["except in the case of a port district project"]¹ : (1) for a ¹mega
12 project, the gross amount for each new or retained full-time job
13 shall not exceed \$15,000 per year; (2) for a ¹ qualified business
14 facility located within an urban transit hub municipality, the gross
15 amount for each new or retained full-time job shall not exceed
16 \$10,000 per year; ¹[(2)] (3)¹ for a qualified business facility in a
17 distressed municipality the gross amount for each new or retained
18 full-time job shall not exceed \$8,000 per year; ¹[(3)] (4)¹ for a
19 qualified business facility in ¹["another priority area"] other priority
20 areas¹ , the gross amount for each new or retained full-time job
21 shall not exceed \$6,000 per year; and ¹[(4)] (5)¹ for a qualified
22 business facility in ¹["another eligible area"] other eligible areas¹ ,
23 the gross amount ¹for each new or retained full-time job¹ shall not
24 exceed \$4,000 per year.

25 e. After the determination by the authority of the gross amount
26 of tax credits for which a business is eligible pursuant to subsection
27 d. of this subsection, the final total tax credits amount shall be
28 calculated as follows: (1) for each new full-time job, the business
29 shall be entitled to tax credits equaling 100 percent of the gross
30 amount of tax credits for each new ¹["or retained"]¹ full-time job;
31 and (2) for each retained full-time job, the business shall be entitled
32 to tax credits equaling 80 percent of the gross amount of tax credits
33 for each ¹["new or"]¹ retained full-time job.

34 ¹f. Notwithstanding the provisions of subsections a. through e.
35 of this section, for each application approved by the authority's
36 board, the amount of tax credits available to be applied by the
37 business annually shall not exceed: (1) \$30,000,000 with respect to
38 a mega project; (2) \$10,000,000 with respect to a qualified business
39 facility in an urban transit hub municipality; (3) \$8,000,000 with
40 respect to a qualified business facility in a distressed municipality;
41 (4) \$4,000,000 with respect to a qualified business facility in other
42 priority areas; and (5) \$2,500,000 with respect to a qualified
43 business facility in other eligible areas.¹

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

45 12. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
46 read as follows:

1 6. a. (1) **【**The value of all credits approved by the authority
2 pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed
3 \$200,000,000, except that the value of all credits approved by the
4 authority pursuant to this section may exceed \$200,000,000 if the
5 board of the authority determines the credits to be reasonable,
6 justifiable, and appropriate; provided, however, the combined value
7 of all credits approved by the authority pursuant to P.L.2007, c.346
8 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.)
9 shall not exceed \$1,750,000,000.**】** (Deleted by amendment, P.L. , c.)
10 (pending before the Legislature as this bill)

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

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

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

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

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

10 b. 【A business shall apply for the tax credit prior to July 1,
11 2014, and shall submit its documentation indicating that it has met
12 the capital investment and employment specified in the project
13 agreement for certification of its credit amount no later than July
14 28, 2017.】 (1) A business shall submit its documentation indicating
15 that it has met the capital investment and employment requirements
16 specified in the incentive agreement for certification of its tax credit
17 amount within three years following the date of approval of its
18 application by the authority. The authority shall have the discretion
19 to grant two six-month extensions of this deadline. In no event
20 shall the incentive effective date occur later than four years
21 following the date of approval of an application by the authority.

22 (2) Full-time employment for an accounting or privilege period
23 shall be determined as the average of the monthly full-time
24 employment for the period.

25 ¹(3) A business seeking a credit for a mega project shall apply
26 for the credit within four years after the effective date of the “New
27 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C.)
28 (pending before the Legislature as this bill).¹

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

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

45 The credit amount that may be taken for a tax period of the
46 business that exceeds the final liabilities of the business for the tax
47 period may be carried forward for use by the business in the next 20

1 successive tax periods, and shall expire thereafter **【**, provided that
2 the value of all credits approved by the authority against tax
3 liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not
4 exceed \$150,000,000 and the combined value of all credits
5 approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-
6 207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not
7 exceed \$1,750,000,000**】**.

8 The amount of credit allowed for **【a tax】** the eligibility period to
9 a business that is a tenant in a qualified business facility shall not
10 exceed the business' total lease payments and other documented
11 occupancy costs for use and occupancy of the qualified business
12 facility for the **【tax】** eligibility period.

13 (2) A business that is a partnership ¹, not for profit entity, or
14 other business entity that does not pay corporate business taxes¹
15 shall not be allowed a credit under this section directly, but the
16 amount of credit of an owner of a business shall be determined by
17 allocating to each owner of the partnership that proportion of the
18 credit of the business that is equal to the owner of the partnership's
19 share, whether or not distributed, of the total distributive income or
20 gain of the partnership for its tax period ending within or with the
21 owner's tax period, or that proportion that is allocated by an
22 agreement, if any, among the owners of the partnership that has
23 been provided to the Director of the Division of Taxation in the
24 Department of the Treasury by such time and accompanied by such
25 additional information as the director may require.

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

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

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

1 minimum number of new **【and】** or retained full-time jobs
2 **【specified in the project agreement】** required pursuant to subsection
3 c. of section 3 of this program, then the business shall forfeit its
4 credit amount for that tax period and each subsequent tax period,
5 until the first tax period for which documentation demonstrating the
6 restoration of the number of full-time employees employed by the
7 business at the qualified business facility to **【100】** the minimum
8 number of 'new or retained' full-time jobs required by this
9 program.

10 (3) If, in any tax period during the eligibility period, the new or
11 retained jobs at the qualified business facility drops below the level
12 on which a bonus is calculated pursuant to subsection c. of section 5
13 of this program, the amount of the tax credit for that tax period shall
14 be adjusted to reflect such reduction for that tax period and each
15 subsequent tax period, until the first tax period for which
16 documentation is provided by the business demonstrating that it
17 qualifies for such bonus.

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

24 (b) If a **【tenant】** business leases or subleases its **【tenancy】**
25 premises in the qualified business facility in whole or in part during
26 the **【10-year】** eligibility period, the new tenant or subtenant shall
27 not acquire the **【credit】** tax credits of the **【sublessor】** business, and
28 the **【sublessor tenant】** business shall forfeit all credits for the tax
29 period of its lease or sublease and all subsequent tax periods.
30 Notwithstanding such forfeiture, a business that leases or subleases
31 less than all of its premises and does not thereby reduce its new or
32 retained full-time job count below the minimum number required
33 pursuant to section 3 of this program shall not be affected by this
34 paragraph.

35 e. A business shall not be eligible to receive tax credits under
36 this program for retained full-time jobs that have received
37 assistance under the "Business Retention and Relocation Assistance
38 Act," P.L.1996, c.25 (C.34:1B-112 et seq.) or the "Business
39 Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124
40 et seq.), and at the time of approval by the authority for the tax
41 credits under this program are still subject to the obligations under
42 the "Business Retention and Relocation Assistance Act," P.L.1996,
43 c.25 (C.34:1B-112 et seq.) or the "Business Employment Incentive
44 Program Act," P.L.1996, c.26 (C.34:1B-124 et seq.), unless as of
45 the date the retained full-time jobs are determined to be at risk of
46 leaving the State pursuant to subsection d. of section 3 of this
47 program, either (1) the employment commitment obligations under

1 the applicable existing assistance program will have expired; or (2)
2 if the employment commitment obligations under the applicable
3 existing assistance program will not have expired, the business
4 agrees to repay to the authority on the incentive effective date, the
5 amount of the assistance received for the retained full-time jobs,
6 which amount will be proportional based on the amount of time
7 remaining under the applicable employment commitment
8 obligations of the existing assistance program, calculated from the
9 date that the retained full-time jobs are determined to be at risk of
10 leaving the State pursuant to subsection d. of section 3 of this
11 program.

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

13

14 13. Section 7 of P.L.2011, c.149 (C.34:1B-248) is amended to
15 read as follows:

16 7. A business may apply to the Director of the Division of
17 Taxation in the Department of the Treasury and the chief executive
18 officer of the authority for a tax credit transfer certificate, covering
19 one or more years, in lieu of the business being allowed any amount
20 of the credit against the tax liability of the business. The tax credit
21 transfer certificate, upon receipt thereof by the business from the
22 director and the chief executive officer of the authority, may be sold
23 or assigned, in full or in part, for an amount not less than \$100,000
24 in tax credits, although one transfer in each tax period may be for an
25 amount less than \$100,000, to any other person that may have a tax
26 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
27 pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
28 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15),
29 or pursuant to N.J.S.17B:23-5. The certificate provided to the
30 business shall include a statement waiving the business's right to
31 claim that amount of the credit against the taxes that the business
32 has elected to sell or assign. The sale or assignment of any amount
33 of a tax credit transfer certificate allowed under this section shall
34 not be exchanged for consideration received by the business of less
35 than 75 percent of the transferred credit amount before considering
36 any further discounting to present value over a term of years, which
37 shall be permitted between the business and the transferee of the
38 certificate. Any amount of a tax credit transfer certificate used by a
39 purchaser or assignee against a tax liability shall be subject to the
40 same limitations and conditions that apply to the use of the credit by
41 the business that originally applied for and was allowed the credit.

42 (cf: P.L.2011, c.149, s.7)

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

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

20 b. Through regulation, the authority shall establish standards
21 by which qualified business facilities shall be constructed or
22 renovated **【based on the green building manual prepared by the**
23 **Commissioner of Community Affairs pursuant to section 1 of**
24 **P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable**
25 **energy, energy-efficient technology, and non-renewable resources**
26 **in order to reduce environmental degradation and encourage long-**
27 **term cost reduction】** in compliance with minimum environmental
28 and sustainability standards.

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

30

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

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

34 "Business" means a corporation; sole proprietorship; partnership;
35 corporation that has made an election under Subchapter S of
36 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or
37 any other business entity through which income flows as a
38 distributive share to its owners; limited liability company; nonprofit
39 corporation; or any other form of business organization located
40 either within or outside this State, but excluding any public or
41 private institution of higher education.

42 "Environmental infrastructure project" means the acquisition,
43 construction, improvement, repair or reconstruction of all or part of
44 any structure, facility or equipment, or real or personal property
45 necessary for or ancillary to any (1) wastewater treatment system
46 project, including any stormwater management or combined sewer
47 overflow abatement projects; or (2) water supply project, as
48 authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or

1 P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water
2 resources project, as authorized pursuant to P.L.2003, c.162, but
3 excluding the acquisition, construction, repair, or reconstruction of
4 any building or other improvements to real property, or the
5 acquisition or installation of any equipment or other personal
6 property, that, upon completion, shall constitute a qualified
7 employment incentive facility.

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

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

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

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

1 prescribed by the applicable law or any regulation adopted pursuant
2 thereto, or under any project agreement or other contract executed
3 pursuant to such law or regulation, or if no such minimum period
4 shall be so prescribed, for a period of four years.

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

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

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

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

37

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

40 18. a. Notwithstanding any rules of the council to the contrary,
41 for developments consisting of newly-constructed residential units
42 located, or to be located, within the jurisdiction of any regional
43 planning entity required to adopt a master plan or comprehensive
44 management plan pursuant to statutory law, including the New
45 Jersey Meadowlands Commission pursuant to subsection (i) of
46 section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission
47 pursuant to section 7 of the "Pinelands Protection Act," P.L.1979,
48 c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization

1 Planning Authority pursuant to section 5 of P.L.2006, c.16
2 (C.52:27I-5), or its successor, and the Highlands Water Protection
3 and Planning Council pursuant to section 11 of P.L.2004, c.120
4 (C.13:20-11), but excluding joint planning boards formed pursuant
5 to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be
6 required to be reserved for occupancy by low or moderate income
7 households at least 20 percent of the residential units constructed, to
8 the extent this is economically feasible.

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

25 c. (1) The Legislature recognizes that regional planning entities
26 are appropriately positioned to take a broader role in the planning
27 and provision of affordable housing based on regional planning
28 considerations. In recognition of the value of sound regional
29 planning, including the desire to foster economic growth, create a
30 variety and choice of housing near public transportation, protect
31 critical environmental resources, including farmland and open space
32 preservation, and maximize the use of existing infrastructure, there
33 is created a new program to foster regional planning entities.

34 (2) The regional planning entities identified in subsection a. of
35 this section shall identify and coordinate regional affordable
36 housing opportunities in cooperation with municipalities in areas
37 with convenient access to infrastructure, employment opportunities,
38 and public transportation. Coordination of affordable housing
39 opportunities may include methods to regionally provide housing in
40 line with regional concerns, such as transit needs or opportunities,
41 environmental concerns, or such other factors as the council may
42 permit; provided, however, that such provision by such a regional
43 entity may not result in more than a 50 percent change in the fair
44 share obligation of any municipality; provided that this limitation
45 shall not apply to affordable housing units directly attributable to
46 development by the New Jersey Sports and Exposition Authority
47 within the New Jersey Meadowlands District.

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

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

20 d. Notwithstanding the provisions of subsection b. of this
21 section, or any other law or regulation to the contrary, for purposes
22 of mixed use projects or qualified residential projects in which a
23 business receives a tax credit pursuant to P.L.2007, c.346 (C.34:1B-
24 207 et seq.) or a tax credit pursuant to section 35 of P.L.2009, c.90
25 (C.34:1B-209.3) or a tax credit pursuant to section 6 of P.L.2009,
26 c.90 (C.52:27D-489f), as amended by the "New Jersey Economic
27 Opportunity Act of 2013," P.L. , c. (C.) (pending before the
28 Legislature as this bill), or both, an "eligible municipality," as
29 defined in section 2 of P.L.2007, c.346 (C.34:1B-208), or the
30 municipality in which a redevelopment project, as defined in
31 section 3 of P.L.2009, c.90 (C.52:27D-489c), is located, as
32 applicable, shall have the option of deciding the percentage of
33 newly-constructed residential units within the project, up to 20
34 percent of the total, required to be reserved for occupancy by low or
35 moderate income households. For a mixed use project or a
36 qualified residential project that has received preliminary or final
37 site plan approval prior to the effective date of P.L.2011, c.89, the
38 percentage shall be deemed to be the percentage, if any, of units
39 required to be reserved for low or moderate income households in
40 accordance with the terms and conditions of such approval.
41 (cf: P.L.2011, c.89, s.5)

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

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

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

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

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

12 "Deep poverty pocket" means ¹**[any]** a population¹ census tract
13 ¹**[determined by the United States Census Bureau as having, at the**
14 **time of an application for a project, an average federal poverty level**
15 **of 20 percent or more and which has been determined by the**
16 **authority to be an area in need of economic development incentive**
17 **assistance]** in this State, or in the case of an area which is not
18 traced for population census tracts, the equivalent county division
19 in this State, in which the poverty rate for that tract is not less than
20 20 percent and 50 percent or more of the households in that tract
21 have an income equal to or less than 60 percent of the area median
22 gross income if the tract is located within a metropolitan area, or the
23 median household income in that tract does not exceed 80 percent
24 of the Statewide median household income if the tract is not located
25 within a metropolitan area¹ .

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

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

33 "Disaster recovery project" means a redevelopment project
34 located on property that has been damaged or destroyed as a result
35 of a federally-declared disaster ¹and which has been determined by
36 the authority to be an area appropriate for development and in need
37 of economic development incentive assistance¹ .

38 "Distressed municipality" means an eligible municipality under
39 section 2 of P.L.2007. C.346 (C.34:1B-208), a municipality
40 qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178
41 et seq.), a municipality under the supervision of the Local Finance
42 Board pursuant to the provisions of the "Local Government
43 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a
44 SDA municipality, a municipality in which a major rail station is
45 located, ¹**[or]**¹ a municipality identified by the Director of the
46 Division of Local Government Services in the Department of
47 Community Affairs to be facing serious fiscal distress ¹, or a

1 municipality that includes an Historically Underutilized Business
2 Zone as that term is defined by subsection (p) of section 3 of Pub.L.
3 85-536 (15 U.S.C. s.632), an Urban Empowerment Zone or Urban
4 Enterprise Community as designated by the Secretary of the United
5 States Department of Housing and Urban Development, or a Rural
6 Empowerment Zone or Rural Enterprise Community as designated
7 by the Secretary of the United States Department of Agriculture¹,
8 but excluding a municipality qualifying under section 2 of
9 P.L.2007, c.346 (C.34:1B-208).

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

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

24 "Infrastructure improvements in the public right-of-way" mean
25 public structures or improvements located in the public right of way
26 that are located within a project area or that constitute an ancillary
27 infrastructure project ¹and that are determined by the authority, in
28 consultation with applicable State agencies, to be consistent with
29 and in furtherance of State public infrastructure objectives and
30 initiatives¹.

31 "Low income housing" means housing affordable according to
32 federal Department of Housing and Urban Development or other
33 recognized standards for home ownership and rental costs and
34 occupied or reserved for occupancy by households with a gross
35 household income equal to 50 percent or less of the median gross
36 household income for households of the same size within the
37 housing region in which the housing is located.

38 "Major rail station" means a railroad station which provides
39 access to the public to a minimum of seven commuter rail lines.

40 ¹"Moderate income housing" means housing affordable,
41 according to United States Department of Housing and Urban
42 Development or other recognized standards for home ownership
43 and rental costs, and occupied or reserved for occupancy by
44 households with a gross household income equal to more than 50
45 percent but less than 80 percent of the median gross household
46 income for households of the same size within the housing region in
47 which the housing is located.¹

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

5 "Project area" means land or lands under common ownership or
6 control including through one or more property owners
7 associations, a joint venture between one or more property owners,
8 a redevelopment agreement with a municipality, or as otherwise
9 established by a municipality.

10 "Project cost" means the costs incurred in connection with the
11 redevelopment project by the developer and such landlords, tenants,
12 or other business occupants as may be part of the project until the
13 issuance of a permanent certificate of occupancy, or until such other
14 time specified by the authority, for a specific investment or
15 improvement, including lands, buildings, improvements, real or
16 personal property, or any interest therein, including leases
17 discounted to present value, including lands under water, riparian
18 rights, space rights, and air rights acquired, owned, developed or
19 redeveloped, constructed, reconstructed, rehabilitated, or improved,
20 ¹any environmental remediation costs,¹ plus soft costs ¹not
21 directly related to construction¹ , of an amount not to exceed 20
22 percent of the total costs, capitalized interest paid to third parties,
23 and the cost of infrastructure improvements, including ancillary
24 infrastructure projects ¹and any environmental remediation costs¹ ,
25 but excluding any particular costs for which the project has received
26 federal, State, or local grant funding. ¹Notwithstanding the
27 foregoing, the project cost described herein may not include items
28 acquired prior to the date of application unless: a. such items were
29 acquired from an unrelated party in an "arms length" transaction for
30 the purpose of redevelopment generally as described in the
31 application; and b. the amount of project cost acquired, owned,
32 developed or redeveloped, constructed, reconstructed, rehabilitated,
33 or improved after the date of application equals at least 50 percent
34 of the amount of items acquired prior to the date of application.¹

35 "Project financing gap" means: a. the part of the total
36 [redevelopment] project cost, including return on investment, that
37 remains to be financed after all other sources of capital have been
38 accounted for, including, but not limited to, developer contributed
39 capital, which may include the ¹[appraised]¹ value of any existing
40 ¹land and¹ improvements in the project area owned or controlled by
41 the developer, and which shall not be less than 20 percent of the
42 total project cost, excluding the cost of infrastructure improvements
43 in the public right-of-way and investor or financial entity capital or
44 loans for which the developer, after making all good faith efforts to
45 raise additional capital, certifies that additional capital cannot be
46 raised from other sources on a non-recourse basis; b. the cost of
47 infrastructure improvements including any ancillary infrastructure

1 project; and c. the amount by which total project cost exceeds the
2 cost of an alternative location for the redevelopment project.

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

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

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

9 (2) multiplying that product by a fraction having a numerator
10 equal to the taxable value of all the property assessed within the
11 project area, minus the property tax increment base, and having a
12 denominator equal to the taxable value of all property assessed
13 within the project area.

14 For the purpose of this definition, "property tax increment base"
15 means the aggregate taxable value of all property assessed which is
16 located within the redevelopment project area as of October 1st of
17 the year preceding the year in which the redevelopment incentive
18 grant agreement is authorized.

19 "Qualified incubator facility" means a commercial building
20 ¹located near and collaborating with a research institution, teaching
21 hospital, college, or university¹ having over 100,000 square feet of
22 office, laboratory, or industrial space with at least 75 percent of its
23 gross leasable area restricted to use by a technology startup
24 company during the commitment period.

25 "Qualified residential project" means ¹**["the portion of"]** ¹ a
26 redevelopment project that is predominantly residential and
27 includes multi-family residential units, hotel units, or dormitory
28 units for purchase or lease that represent at least \$17,500,000 of the
29 total project cost ¹if the project is located in any municipality with a
30 population greater than 200,000 according to the latest federal
31 decennial census¹ or \$10,000,000 of the total project cost if the
32 project is ¹located in any municipality with a population less than
33 200,000 according to the latest federal decennial census or is¹ a
34 disaster recovery project.

35 "Qualifying economic redevelopment and growth grant incentive
36 area" means any area designated pursuant to P.L.1985, c.398
37 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning
38 Area 2 (Suburban), **["or a center as designated by the State Planning**
39 **Commission; an area zoned for development pursuant to]** Planning
40 Area 3 (Fringe Planning Area), or Planning Area 4A (Rural
41 Planning Area); a designated center, or a designated growth center
42 in an endorsed plan until June 30, 2013, or until the State Planning
43 Commission revises and readopts New Jersey's State Strategic Plan
44 and adopts regulations to refine this definition as it pertains to
45 Statewide planning areas, whichever is later; a smart growth area
46 and planning area designated in a master plan adopted by the New
47 Jersey Meadowlands Commission pursuant to subsection (i) of

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

44 "Redevelopment incentive grant agreement" means an agreement
45 between, (1) the State and the New Jersey Economic Development
46 Authority and a developer, or (2) a municipality and a developer, or
47 a municipal ordinance authorizing a project to be undertaken by a
48 municipal redeveloper, under which, in exchange for the proceeds

1 of an incentive grant, the developer agrees to perform any work or
2 undertaking necessary for a redevelopment project, including the
3 clearance, development or redevelopment, construction, or
4 rehabilitation of any structure or improvement of commercial,
5 industrial, residential, or public structures or improvements within a
6 qualifying economic redevelopment and growth grant incentive area
7 or a transit village.

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

23 "Redevelopment utility" means a self-liquidating fund created by
24 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
25 489l) to account for revenues collected and incentive grants paid
26 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
27 revenues dedicated to a redevelopment project.

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

34 "SDA district" means the 31 school districts designated pursuant
35 to P.L.2000, c.72 (C.18A:7G-1 et seq.).

36 "SDA municipality" means a municipality in which all public
37 school students attend school in a SDA district.

38 "Technology startup company" means a for profit business that
39 has ¹been in operation for less than five years and is developing or
40 possesses a proprietary technology or business method of a high-
41 technology or life science-related product, process, or service which
42 the business intends to move to commercialization **an equity**
43 capitalization, net assets, or written commitments of less than
44 \$500,000 in the form of cash or cash equivalents, has been in
45 operation for no more than 15 years, employs no more than 250
46 employees, is primarily engaged in biotechnology research,
47 development, or production which it intends to move to
48 commercialization, is without a property tax delinquency for

1 property in this State, and is not a delinquent taxpayer for the
2 purposes of any State taxes¹.

3 “Tourism destination project” means a redevelopment project
4 that will be among the most visited privately owned or operated
5 tourism or recreation sites in the State as determined at the
6 discretion of the authority.

7 “Transit project” means a redevelopment project located within a
8 1/2-mile radius surrounding the mid-point of a New Jersey Transit
9 Corporation, Port Authority Transit Corporation, or Port Authority
10 Trans-Hudson Corporation rail, bus, or ferry station platform area,
11 including all light rail stations.

12 “Transit village” means a community with a bus, train, light rail,
13 or ferry station that has developed a plan to achieve its economic
14 development and revitalization goals and has been designated by
15 the New Jersey Department of Transportation as a transit village.

16 “Urban transit hub site” means a project location within a 1/2-
17 mile radius surrounding the mid-point of a New Jersey Transit
18 Corporation, Port Authority Transit Corporation, or Port Authority
19 Trans-Hudson Corporation rail, bus, or ferry station platform area,
20 including all light rail stations, or adjacent to freight rail, in any
21 municipality considered an “eligible municipality,” as defined
22 pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208), as of
23 December 31, 2012.

24 “Vacant commercial building” means any commercial building
25 or complex of commercial buildings having over 400,000 square
26 feet of office, laboratory, or industrial space that is more than 70
27 percent unoccupied at the time of application to the authority or is
28 negatively impacted by the approval of a “qualified business
29 facility,” as defined pursuant to section 2 of P.L.2007, c.346
30 (C.34:1B-208).

31 “Vacant health facility project” means a redevelopment project
32 where a health facility currently exists and is considered vacant. A
33 health facility shall be considered vacant if at least 70 percent of
34 that facility has not been open to the public or utilized to serve any
35 patients at the time of application to the authority.

36 ¹“Workforce housing” means affordable housing according to
37 federal Department of Housing and Urban Development or other
38 recognized standards for home ownership and rental costs and
39 occupied or reserved for occupancy by households with a gross
40 household income equal to more than 50 percent but less than 120
41 percent of the median gross household income for households of the
42 same size within the housing region in which the housing is
43 located.]¹

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

45

46 18. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
47 read as follows:

1 6. a. Up to the limits established in subsection b. of this section
2 and in accordance with a redevelopment incentive grant agreement,
3 beginning upon the receipt of occupancy permits for any portion of
4 the redevelopment project, or upon such other event evidencing
5 project completion as set forth in the incentive grant agreement, the
6 State Treasurer shall pay to the developer incremental State
7 revenues directly realized from businesses operating on or at the
8 site of the redevelopment project **【premises】** , including exempt
9 businesses, from the following taxes: the Corporation Business Tax
10 Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed
11 on marine insurance companies pursuant to R.S.54:16-1 et seq., the
12 tax imposed on insurers generally, pursuant to P.L.1945, c.132
13 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
14 gross receipts tax and public utility excise tax imposed on sewerage
15 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
16 seq.), those tariffs and charges imposed by electric, natural gas,
17 telecommunications, water and sewage utilities, and cable television
18 companies under the jurisdiction of the New Jersey Board of
19 Utilities, or comparable entity, related to societal benefits charges
20 assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any
21 charges paid for compliance with the "Global Warming Response
22 Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy
23 facility assessment unit taxes paid pursuant to section 67 of
24 P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on
25 public utility and cable television services and commodities, the tax
26 derived from net profits from business, a distributive share of
27 partnership income, or a pro rata share of S corporation income
28 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
29 seq., the tax derived from a business at the site of a redevelopment
30 project that is required to collect the tax pursuant to the "Sales and
31 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
32 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
33 of furniture, fixtures and equipment, or materials **【used】** for the
34 remediation, the construction of new structures **【,** or the
35 construction of new residences **】** or residences, or the renovation of
36 same, at the site of a redevelopment project, the tax imposed
37 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from purchases of
38 goods and services used in the ongoing operation of a business at
39 the site of the redevelopment project, the hotel and motel occupancy
40 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
41 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
42 c.49 (C.46:15-7) derived from the sale of real property at the site of
43 the redevelopment project and paid to the State Treasurer for use by
44 the State, that is not credited to the "Shore Protection Fund" or the
45 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
46 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
47 P.L.1968, c.49 (C.46:15-8).

1 b. Up to an average of 75 percent of the projected annual
2 incremental revenues, averaged over the length of time during
3 which the reimbursement shall be granted, may be pledged towards
4 the State portion of an incentive grant. In the case of a qualified
5 residential project, if the estimated amount of incremental revenues
6 pledged towards the State portion of an incentive grant would be
7 inadequate to fully fund the amount of such State portion of the
8 incentive grant, then in lieu of an incentive grant based on such
9 incremental revenue, the developer shall be awarded tax credits
10 equal to the full amount of the incentive grant. The value of all
11 credits approved by the authority pursuant to this ¹[section]
12 subsection¹ shall not exceed ¹[\$750,000,000] \$600,000,000¹ , of
13 which \$250,000,000 shall be restricted to qualified residential
14 projects located on urban transit hub sites that are commuter rail in
15 nature; \$200,000,000 shall be restricted to qualified residential
16 projects in distressed municipalities or deep poverty pockets;
17 ¹[\$150,000,000] \$100,000,000¹ shall be restricted to qualified
18 residential projects that are disaster recovery projects; and the
19 remaining ¹[\$150,000,000] \$50,000,000¹ shall be used for
20 qualified residential projects in any municipality falling within a
21 qualifying economic redevelopment and growth incentive area. Not
22 more than \$40,000,000 of credits shall be awarded to any qualified
23 residential project in a distressed municipality and not more than
24 \$20,000,000 of credits shall be awarded to any other qualified
25 residential project. The developer of a qualified residential project
26 seeking an award of credits towards the funding of its incentive
27 grant shall submit an incentive grant application prior to July 1,
28 2015 and if approved shall submit a temporary certificate of
29 occupancy for such project no later than July 28, 2018. Credits
30 awarded to a developer pursuant to this subsection shall be subject
31 to the same financial and related analysis by the authority and shall
32 be utilized or transferred by the developer as if such credits had
33 been awarded to the developer pursuant to section 35 of P.L.2009,
34 c.90 (C.34:1B-209.3) ¹, as amended,¹ for qualified residential
35 projects thereunder. No portion of the revenues pledged pursuant to
36 the “New Jersey Economic Opportunity Act of 2013,” ¹[sections 1
37 through 21 of]¹ P.L. , c. (C.) (pending before the Legislature
38 as this bill) shall be subject to withholding or retainage for
39 adjustment, in the event the developer or taxpayer waives its rights
40 to claim a refund thereof.

41 c. All administrative costs associated with the incentive grant
42 shall be assessed to the applicant and be retained by the State
43 Treasurer from the annual incentive grant payments.

44 d. The incremental revenue for the revenues listed in
45 subsection a. of this section shall be calculated as the difference
46 between the amount collected in any fiscal year from any eligible
47 revenue source included in the State redevelopment incentive grant

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

3 e. The municipality is authorized to collect any and all
4 information necessary to facilitate grants under this program and
5 remit that information, as may be required from time to time, in
6 order to assist in the calculation of incremental revenue.
7 (cf: P.L.2010, c.10, s.6)

8
9 19. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
10 read as follows:

11 8. a. (1) The **【New Jersey Economic Development Authority】**
12 authority, in consultation with the State Treasurer, shall promulgate
13 an incentive grant application form and procedure for the Economic
14 Redevelopment and Growth Grant program.

15 (2) (a) The Local Finance Board, in consultation with the **【New**
16 **Jersey Economic Development Authority】** authority, shall develop
17 a minimum standard incentive grant application form for municipal
18 Economic Redevelopment and Growth Grant programs.

19 (b) Through regulation, the **【Economic Development Authority】**
20 authority shall establish standards for redevelopment projects
21 seeking State or local incentive grants based on the green building
22 manual prepared by the Commissioner of Community Affairs
23 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
24 regarding the use of renewable energy, energy-efficient technology,
25 and non-renewable resources in order to reduce environmental
26 degradation and encourage long-term cost reduction.

27 ¹(c) Through regulation, the authority shall require that, pursuant
28 to section 1 of P.L.1979, c.303 (C.34:1B-5.1), not less than the
29 prevailing wage rate be paid to workers employed in the
30 performance of any construction contract for work at a
31 redevelopment project.¹

32 b. Within each incentive grant application, a developer shall
33 certify information concerning:

- 34 (1) the status of control of the entire redevelopment project site;
35 (2) all required State and federal government permits that have
36 been issued for the redevelopment project, or will be issued pending
37 resolution of financing issues;
38 (3) local planning and zoning board approvals, as required, for
39 the redevelopment project;
40 (4) estimates of the revenue increment base, the eligible
41 revenues for the project, and the assumptions upon which those
42 estimates are made.

43 c. (1) With regard to State tax revenues proposed to be pledged
44 for an incentive grant the authority and the State Treasurer shall
45 review the **【redevelopment】** project costs, and except with respect
46 to an application by a municipal redeveloper or with respect to a
47 qualified residential project, evaluate and validate the project

1 financing gap estimated by the developer, and conduct a State fiscal
2 impact analysis to ensure that the overall public assistance provided
3 to the project will result in net benefits to the State including,
4 without limitation, both direct and indirect economic benefits ¹and
5 non-financial community revitalization objectives, including but not
6 limited to, the promotion of the use of public transportation in the
7 case of the ancillary infrastructure project portion of any transit
8 project】¹ .

9 (2) With regard to local incremental revenues proposed to be
10 pledged for an incentive grant the authority and the Local Finance
11 Board shall review the **【redevelopment】** project costs, and except
12 with respect to an application by a municipal redeveloper or ¹**【,】**¹
13 with respect to a qualified residential project, evaluate and validate
14 the project financing gap projected by the developer, and conduct a
15 local fiscal impact analysis to ensure that the overall public
16 assistance provided to the project will result in net benefits to the
17 municipality wherein the redevelopment project is located
18 including, without limitation, both direct and indirect economic
19 benefits ¹and non-financial community revitalization objectives,
20 including but not limited to, the promotion of the use of public
21 transportation in the case of the ancillary infrastructure project
22 portion of any transit project】¹ .

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

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

30 (5) ¹**【To the extent that either the authority or the Local Finance**
31 **Board does not promulgate the forms or procedures required by this**
32 **section, a municipality shall be permitted to submit an application**
33 **for the approval of a municipal incentive grant agreement, provided**
34 **the application contains all of the information required by the**
35 **Economic Redevelopment and Growth Grant program.】** A
36 developer who has already applied for an incentive grant award
37 prior to the effective date of the “New Jersey Economic
38 Opportunity Act of 2013,” P.L. , c. (C.) (pending before the
39 Legislature as this bill) may not seek to amend such application or
40 reapply for an incentive grant award for the same project or any part
41 thereof for the purpose of availing itself of any more favorable
42 provisions of the Economic Redevelopment and Growth Grant
43 program established pursuant to the “New Jersey Economic
44 Opportunity Act of 2013,” P.L. , c. (C.) (pending before the
45 Legislature as this bill).¹

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

1 20. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to
2 read as follows:

3 9. a. The authority is authorized to enter into a redevelopment
4 incentive grant agreement with a developer for any redevelopment
5 project located within a qualifying economic redevelopment and
6 growth grant incentive area that does not qualify as such area solely
7 by virtue of being a transit village.

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

12 c. The Chief Executive Officer of the ~~【New Jersey Economic~~
13 ~~Development Authority】~~ authority, in consultation with the State
14 Treasurer shall negotiate the terms and conditions of any
15 redevelopment incentive grant agreement on behalf of the State.

16 d. The redevelopment incentive grant agreement shall specify
17 the maximum amount of project costs, the amount of the incentive
18 grant to be awarded the developer, the frequency of payments, and
19 the length of time, which shall not exceed 20 years, during which
20 that reimbursement shall be granted. Except for redevelopment
21 incentive grant agreements with a municipal redeveloper or with the
22 developer of a redevelopment project solely with respect to the cost
23 of infrastructure improvements in the public right-of-way including
24 any ancillary infrastructure project in the public right-of-way, in no
25 event shall the ¹base amount of the¹ combined ¹~~【amount of the】~~¹
26 reimbursements under redevelopment incentive grant agreements
27 with the State or municipality exceed ~~【20】~~ ¹~~【35】~~ ¹20 percent of the
28 total project cost ~~【of the project】~~. ¹~~【The】~~ However, the¹ authority
29 shall be permitted to increase the amount of the reimbursement
30 under the redevelopment incentive grant agreement with the State
31 by up to five percent of the total project cost if the project is: (1)
32 located in a distressed municipality which lacks adequate access to
33 nutritious food in the judgment of the Chief Executive Officer of
34 the authority and will include either a supermarket or grocery store
35 with a minimum of 15,000 square feet of selling space devoted to
36 the sale of consumable products or a prepared food establishment
37 selling only nutritious ready-to-serve meals ¹~~【as a result of~~
38 financial inducements to be given by the developer to the operator
39 of such premises】¹; (2) located in a distressed municipality which
40 lacks adequate access to health care and health services in the
41 judgment of the Chief Executive Officer of the authority and will
42 include a health care and health services ¹~~【support】~~¹ center with a
43 minimum of 10,000 square feet of space devoted to the provision of
44 health care and health services ¹~~【as a result of financial~~
45 inducements to be given by the developer to the operator of such
46 premises】¹; (3) located in a distressed municipality which has a
47 business located therein that is required to respond to a request for

1 proposal to fulfill a contract with the federal government as set
2 forth in subsection d. of section 3 of P.L.2011, c.149 (C.34:1B-
3 244); (4) a transit project; ¹or¹ (5) a qualified residential project in
4 which at least 10 percent of the residential units are constructed as
5 and reserved for ¹workforce¹ moderate income¹ housing ¹; or (6)
6 a disaster recovery project¹ . In addition, if there remains a project
7 financing gap ¹with respect to a developer's redevelopment
8 project¹ after the maximum combined amounts provided in this
9 subsection are considered, then the authority shall be permitted to
10 make a bonus award increasing the amount of the reimbursement
11 under the redevelopment incentive grant agreement with the State
12 by up to 15 percent of the total project cost. In making a bonus
13 award to a developer, the authority shall consider any factors that
14 are found to contribute to the remaining project financing gap, such
15 as whether the project: (a) is located in a distressed municipality
16 and there exists a financial gap between the fair market commercial
17 rental rates in the relevant marketplace and the commercial rental
18 rates that are necessary to make the redevelopment project
19 economically feasible; (b) is located on an environmentally
20 contaminated site requiring remediation; (c) is a qualified
21 residential project in which at least 10 percent of the residential
22 units are constructed as and reserved for low income housing; (d)
23 would include energy efficiency or renewable energy features,
24 measures or upgrades in excess of the green building requirements
25 of the Economic Redevelopment and Growth Grant program which
26 requirements shall be as set forth in the New Jersey Green Building
27 Manual prepared by the Department of Community Affairs; or (e) is
28 a qualified incubator facility ¹or a disaster recovery project having
29 unique added costs of construction associated therewith¹ . ¹For
30 the purposes of calculating the total project cost¹ [of all projects]
31 ¹, the cost of¹ [infrastructure improvements in the public right-
32 of-way and] ¹[publicly owned facilities, other than infrastructure
33 improvements including any ancillary infrastructure project, shall
34 not be included. The amount of the redevelopment incentive grant
35 for a municipal redeveloper or for the developer of a redevelopment
36 project solely with respect to the cost of infrastructure
37 improvements in the public right-of-way including any ancillary
38 infrastructure project in the public right-of-way may include the
39 total cost of such infrastructure improvements and publicly owned
40 facilities.]¹

41 e. ¹The maximum amount of any redevelopment incentive
42 grant shall be equal to the sum of 100 percent of the environmental
43 remediation costs and the costs of infrastructure improvements in
44 the public right-of-way including any ancillary infrastructure
45 project in the public right-of-way and 35 percent of the amount
46 determined by subtracting the costs of infrastructure improvements

1 in the public right-of-way including any ancillary infrastructure
2 project in the public right-of way from the total project costs.

3 f. In computing the maximum percentages of total project cost
4 which may be funded from any redevelopment incentive grant, the
5 authority may, in its discretion, take into account the respective
6 times at which the reimbursements are projected to be paid, or in
7 the case of credits awarded pursuant to section 18 of P.L. , c.
8 (C.) (pending before the Legislature as this bill), the respective
9 times at which the credits are projected to be allocated, and shall
10 count only the net present value of such projected future year
11 payments or credits; provided, however, that such computation shall
12 not have the effect of increasing such maximum percentages of total
13 project costs by more than ten percent in the aggregate. For any
14 future year, such net present value shall be computed by
15 multiplying the nominal amount projected for such future year by
16 the CPI deflator. As used in this subsection, "CPI deflator" means
17 the CPI for an historic year which is as many whole years prior to
18 the base year as the year of computation is prior to the future year
19 in which such payments or credits are projected, divided by the CPI
20 for the base year; "CPI" means the regional consumer price index of
21 all urban consumers, as prepared by the United States Department
22 of Commerce for the region within which the project is located; and
23 "base year" means the most recent CPI available as of the date of
24 computation.

25 g.¹ [The] Except in the case of a qualified residential project,
26 the authority and the State Treasurer may enter into a
27 redevelopment incentive grant agreement only if they make a
28 finding that the State revenues to be realized from the
29 redevelopment project will be in excess of the amount necessary to
30 reimburse the developer for its project financing gap. This finding
31 may be made by an estimation based upon the professional
32 judgment of the Chief Executive Officer of the [New Jersey
33 Economic Development Authority] authority and the State
34 Treasurer.

35 ¹[f.] h.¹ In deciding whether or not to recommend entering into
36 a redevelopment incentive grant agreement and in negotiating a
37 redevelopment agreement with a developer, the Chief Executive
38 Officer of the [New Jersey Economic Development Authority]
39 authority shall consider the following factors:

40 (1) the economic feasibility of the redevelopment project;
41 (2) the extent of economic and related social distress in the
42 municipality and the area to be affected by the redevelopment
43 project or the level of site specific distress to include dilapidated
44 conditions, brownfields designation, environmental contamination,
45 pattern of vacancy, abandonment, or under utilization of the
46 property, ¹rate of foreclosures,¹ or other site conditions as
47 determined by the authority;

- 1 (3) the degree to which the redevelopment project will advance
2 State, regional, and local development and planning strategies;
- 3 (4) the likelihood that the redevelopment project shall, upon
4 completion, be capable of generating new tax revenue in an amount
5 in excess of the amount necessary to reimburse the developer for
6 project costs incurred as provided in the redevelopment incentive
7 grant agreement, provided, however that any tax revenue generated
8 by a redevelopment project that is a disaster recovery project shall
9 be considered new tax revenue even if the same or more tax revenue
10 was generated at or on the site prior to the disaster;
- 11 (5) the relationship of the redevelopment project to a
12 comprehensive local development strategy, including other major
13 projects undertaken within the municipality;
- 14 (6) the need of the redevelopment incentive grant agreement to
15 the viability of the redevelopment project or the promotion of the
16 use of public transportation; and
- 17 (7) the degree to which the redevelopment project enhances and
18 promotes job creation and economic development or the promotion
19 of the use of public transportation.

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

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

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

43
44 21. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to
45 read as follows:

46 11. a. The governing body of a municipality is authorized to
47 enter into a redevelopment incentive grant agreement with a
48 developer, which shall not be effective until adopted by ordinance,

1 for any redevelopment project located within a qualifying economic
2 redevelopment and growth grant incentive area.

3 b. The redevelopment incentive grant agreement shall specify
4 the maximum amount of project costs, the amount of the incentive
5 grant to be awarded the developer, the frequency of payments, and
6 the length of time, which shall not exceed 20 years, during which
7 that reimbursement shall be granted. ¹The maximum amount of any
8 municipal redevelopment incentive grant shall be equal to: (1) 100
9 percent of the project costs in the case of a municipal redeveloper or
10 (2) for all other developers, the sum of 100 percent of the costs of
11 environmental remediation and infrastructure improvements in the
12 public right-of-way including any ancillary infrastructure project in
13 the public right-of-way and 20 percent of the amount determined by
14 subtracting the costs of infrastructure improvements in the public
15 right-of-way including any ancillary infrastructure project in the
16 public right-of-way from the total project costs.¹ Except for
17 redevelopment incentive grants with a municipal redeveloper or
18 with the developer of a redevelopment project solely with respect to
19 the cost of infrastructure improvements in the public right-of-way
20 including any ancillary infrastructure project in the public right-of-
21 way, in no event shall the combined amount of the reimbursements
22 under redevelopment incentive grant agreements with the State or
23 municipality exceed ~~20~~ ¹~~35~~ ²⁰ percent of the total project cost
24 ~~of the project~~ plus any ¹~~bonus award~~ increases¹ of the State
25 ¹~~or municipal~~ portion of such combined amount as set forth in
26 subsection d. of section 9 of P.L.2009, c.90 (C.52:27D-489i). ¹~~For~~
27 the purposes of calculating the total project cost¹ ~~of all projects~~
28 ¹~~the cost of~~ infrastructure improvements in the public right-
29 of-way and ¹~~publicly owned facilities, other than infrastructure~~
30 improvements including any ancillary infrastructure project, shall
31 not be included. The amount of the redevelopment incentive grant
32 for a municipal redeveloper or for the developer of a redevelopment
33 project solely with respect to the cost of infrastructure
34 improvements in the public right-of-way including any ancillary
35 infrastructure project in the public right-of-way may include the
36 total cost of such infrastructure improvements and publicly owned
37 facilities.¹

38 c. ¹In computing the maximum percentage of total project cost
39 which may be funded from any redevelopment incentive grant, the
40 municipality may, in its discretion, take into account the respective
41 times at which the reimbursements are projected to be paid, and in
42 such event shall count only the net present value of such projected
43 future year payments. If so elected, for any future year, such net
44 present value shall be computed by multiplying the nominal amount
45 projected for such future year by the CPI deflator. As used in this
46 subsection, "CPI deflator" means the CPI for an historic year which
47 is as many whole years prior to the base year as the year of

1 computation is prior to the future year in which such payments or
2 credits are projected, divided by the CPI for the base year; "CPI"
3 means the regional consumer price index of all urban consumers, as
4 prepared by the United States Department of Commerce for the
5 region within which the project is located; and "base year" means
6 the most recent CPI available as of the date of computation.

7 d.¹ [The] Except in the case of a qualified residential project,
8 the municipality may enter into a redevelopment incentive grant
9 agreement only if the chief financial officer of the municipality
10 makes a finding that the incremental revenues to be realized from
11 the redevelopment project will be in excess of the amount necessary
12 to reimburse the developer for its project financing gap. Such
13 finding shall be based upon appropriate documentation and
14 calculations supporting the decision.

15 '[d.] e.¹ Within a qualifying economic redevelopment and
16 growth grant incentive area a municipality that has entered into a
17 local redevelopment incentive grant agreement may pledge eligible
18 revenues it is authorized to collect as follows:

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

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

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

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

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

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

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

1 (C.52:27H-80), and pledge the excess revenues to a local
2 redevelopment incentive grant agreement;

3 (7) incremental parking revenue collected, pursuant to section 7
4 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built
5 as part of a redevelopment project, except for public parking
6 facilities owned by parking authorities pursuant to the "Parking
7 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

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

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

14 (10) the property tax increment.

15 The incremental revenue for the revenues listed in this
16 subsection, when applicable, shall be calculated as the difference
17 between the amount collected in any fiscal year from any eligible
18 revenue source included in the local redevelopment incentive grant
19 agreement, less the revenue increment base for that eligible
20 revenue.

21 ¹**[e.] f.**¹ (1) In calculating the general tax rate of a
22 municipality each year, the aggregate amount of the incremental
23 ratable value over the property tax increment base in the
24 redevelopment project area that is pledged as part of a
25 redevelopment incentive grant agreement shall be excluded from
26 the ratable base of a municipality.

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

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

37 ¹**[f.] g.**¹ In addition to the incremental revenues that may be
38 pledged in subsection d. of this section, any amount of tax proceeds
39 collected from the tax on the rental of motor vehicles pursuant to
40 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a
41 redevelopment incentive grant agreement with a developer,
42 regardless of whether or not the redevelopment project area is
43 within or outside of the designated industrial zone from which the
44 tax on the rental of motor vehicles is collected.

45 ¹**[g.] h.**¹ (1) A developer that has entered into a
46 redevelopment incentive grant agreement with a municipality
47 pursuant to this section may, upon notice to and consent of the
48 municipality, pledge and assign as security or support for any loan

1 or bond, any or all of its right, title and interest in and to such
2 agreements and in the incentive grants payable thereunder, and the
3 right to receive same, along with the rights and remedies provided
4 to the developer under such agreement. Any such assignment shall
5 be an absolute assignment for all purposes, including the federal
6 bankruptcy code.

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

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

20

21 ¹ [22. (New section) Sections 22 through 34 of P.L. , c. (C.)
22 (pending before the Legislature as this bill) shall be known and may
23 be cited as the "New Jersey Residential Foreclosure Transformation
24 Act."]¹

25

26 ¹ [23. (New section) The Legislature finds and declares that:

27 a. In recent years, there has been an enormous expansion in
28 the number of mortgage foreclosure filings in New Jersey and
29 across the nation. The number of mortgage foreclosure actions filed
30 in the New Jersey Courts grew from just over 20,000 in 2005 to
31 more than 51,000 in 2008, 66,000 in 2009, and 58,000 in 2010.

32 b. Preliminary information indicates a decline in the number of
33 residential mortgage foreclosure filings over 2011. However, this
34 decline is largely attributable to actions undertaken by the New
35 Jersey Judiciary which, in December of 2010, suspended the
36 processing of uncontested residential foreclosures by the six biggest
37 lenders in order to address "robo-signing" and other processing
38 irregularities.

39 c. Despite this decline, it has been reported that more than one
40 in 10 New Jersey mortgage loans are already in foreclosure or are
41 90 days or more in arrears. Because of the large number of
42 foreclosures filed during the 2009-2010 period, and the Judiciary's
43 suspension of foreclosure processing, reports indicate that as of
44 August 2011 more than 100,000 residential foreclosure cases were
45 still open. Now that the courts have resumed processing
46 foreclosures for the big six lenders, it is widely believed that
47 foreclosure filings will increase during 2012. This is due in part to
48 the large number of mortgages that are seriously delinquent, or

1 more than 90 days past due. Reports have indicated that during the
2 suspension period mortgage lenders were waiting to file more than
3 28,000 additional foreclosures and that another 55,000 mortgage
4 loans were over 90 days delinquent.

5 d. Many of these foreclosed residential properties are vacant,
6 undermining the health, safety, and economic vitality of
7 neighborhoods, depressing their property values, and reducing
8 revenues to municipalities.

9 e. It is the public policy of this State to encourage the
10 production of low-income and moderate-income housing to serve
11 the general welfare of all the State's residents.

12 f. The availability of tens of thousands of foreclosed
13 residential properties presents a unique opportunity for the State to
14 facilitate the purchase and dedication, or the rental, of housing units
15 for low-income and moderate-income residents.

16 g. Establishment of a temporary program within the New
17 Jersey Housing and Mortgage Finance Agency dedicated to the
18 purpose of identifying foreclosed residential properties and
19 facilitating their purchase and dedication for occupancy or their
20 rental, including, but not limited to, low-income and moderate-
21 income families, is in the public interest of the State.】¹

22

23 ¹【24. (New section) As used in Sections 22 through 34 of
24 P.L. , c. (C.) (pending before the Legislature as this bill):

25 "Affordable" means a sales price or rent within the means of a
26 low- or moderate- income household.

27 "Agency" means the New Jersey Housing and Mortgage Finance
28 Agency established pursuant to section 4 of P.L.1983, c.530
29 (C.55:14K-4).

30 "Community development financial institution" means an entity
31 designated and certified by the United States Department of the
32 Treasury as a Community Development Financial Institution
33 pursuant to 12 CFR Part 1805.

34 "Contractor" means a qualified community development
35 financial institution that enters into a contract or loan with the
36 agency pursuant to section 28 of P.L. , c. (C.) (pending
37 before the Legislature as this bill).

38 "Eligible property" means any residential property that is owned
39 by an institutional lender as the result of a mortgage foreclosure.

40 "Institutional lender" or "lender" means any lawfully constituted
41 mortgage lender, mortgage investor, or mortgage loan servicer that
42 owns an eligible property including, but not limited to any agency
43 or instrumentality of the United States, including, but not limited to,
44 the Government National Mortgage Association, the Federal Home
45 Loan Mortgage Corporation, the Federal National Mortgage
46 Association, the Federal Housing Administration, the Small
47 Business Administration, the Resolution Funding Corporation, and
48 the Federal Deposit Insurance Corporation.

1 "Intercreditor agreement" means an agreement among creditors
2 that sets forth the various lien positions and the rights and liabilities
3 of each creditor and its impacts on the other creditors.

4 "Low-income" means 50 percent or less of the median gross
5 household income for households of the same size within the
6 housing region in which the household is located, based upon the
7 United States Department of Housing and Urban Development's
8 Section 8 Income Limits (uncapped) averaged across counties for
9 the housing region.

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

17 "Market-rate units" means housing which is not restricted to low-
18 and moderate-income households that may sell or rent at any price.

19 "Moderate-income" means more than 50 percent but less than 80
20 percent of the median gross household income for households of the
21 same size within the housing region in which the household is
22 located, based upon the United States Department of Housing and
23 Urban Development's Section 8 Income Limits (uncapped) averaged
24 across counties for the housing region.

25 "Moderate-income housing" means housing affordable,
26 according to United States Department of Housing and Urban
27 Development or other recognized standards for home ownership
28 and rental costs, and occupied or reserved for occupancy by
29 households with a gross household income equal to more than 50
30 percent but less than 80 percent of the median gross household
31 income for households of the same size within the housing region in
32 which the housing is located.

33 "Program" means the "New Jersey Foreclosure Transformation
34 Program" established pursuant to P.L. , c. (C.) (pending
35 before the Legislature as this bill).

36 "Qualified community development financial institution" means
37 a community development financial institution that has a minimum
38 of \$50 million in assets under management and a minimum of two
39 years' experience in the financing and acquisition of real estate for
40 affordable housing.

41 "Qualifying household" means a very-low-, low-, or moderate-
42 income household, the head of which certifies in writing that the
43 household intends to occupy the property as a principal residence
44 for at least 12 months.

45 "Very-low-income" means 30 percent or less of the median gross
46 household income for households of the same size within the
47 housing region in which the household is located, based upon the
48 United States Department of Housing and Urban Development's

1 Section 8 Income Limits (uncapped) averaged across counties for
2 the housing region.

3 "Very-low-income housing" means housing which is affordable,
4 according to United States Department of Housing and Urban
5 Development or other recognized standards for home ownership
6 and rental costs, and occupied or reserved for occupancy by
7 households with a gross household income equal to 30 percent or
8 less of the median gross household income for households of the
9 same size within the housing region in which the housing is
10 located.】¹

11

12 ¹【25. (New section) There is established in the New Jersey
13 Housing and Mortgage Finance Agency the "New Jersey
14 Foreclosure Transformation Program," which shall be a temporary
15 program for the purpose of purchasing foreclosed residential
16 properties from institutional lenders and dedicating them for
17 occupancy as affordable housing.】¹

18

19 ¹【26. (New section) To implement the program, the agency shall
20 have the following powers:

21 a. To enter into contracts and modify, or consent to the
22 modification of, any contract or agreement to which the agency is a
23 party or in which the agency has an interest under sections 22
24 through 34 of P.L. , c. (C.) (pending before the Legislature
25 as this bill), with or without public bidding, notwithstanding the
26 provisions of any other law.

27 b. To make advance, progress, or other payments.

28 c. To acquire, hold, lease, mortgage, maintain, and dispose of,
29 at public or private sale, real and personal property, using any
30 legally available private sector methods including without
31 limitation, securitization of debt or equity, limited partnerships,
32 mortgage investment conduits, and real estate investment trusts, and
33 otherwise exercise all the usual incidents of ownership of property
34 necessary and convenient to the operations of the agency; provided,
35 however, that every contract for the acquisition of real property
36 entered into by the agency, and every deed conveying real property
37 to the agency, shall provide that if the agency holds title to the
38 property on the 61st day after the date of the deed, all rights, title,
39 and interest conveyed to the agency shall automatically revert to
40 and vest in the grantor without the necessity of any further act on
41 the part of or on behalf of the grantor, it being the intent to convey a
42 determinable estate. In each case where title has reverted to and re-
43 vested in the grantor as provided in this subsection, the agency shall
44 memorialize the reversion and re-vesting of title by the immediate
45 execution and delivery of a deed to the grantor conveying all of the
46 agency's estate, right, title and interest in and to the property
47 described therein.

1 d. To sue and be sued in its own name in any court of
2 competent jurisdiction.】¹

3
4 ¹【27. (New section) In addition to the powers of the agency
5 described in section 26 of P.L. , c. (C.) (pending before the
6 Legislature as this bill) in implementing the program, the agency
7 shall have the following powers:

8 a. The agency may enter into contracts with any person,
9 corporation, or entity which the agency determines to be necessary
10 or appropriate to carry out its responsibilities under sections 22
11 through 34 of P.L. , c. (C.) (pending before the Legislature
12 as this bill). Such contracts shall be subject to the procedures
13 adopted pursuant to section 28 of P.L. , c. (C.) (pending
14 before the Legislature as this bill).

15 b. In carrying out the agency's duties under sections 22 through
16 34 of P.L. , c. (C.) (pending before the Legislature as this
17 bill), the agency may utilize the services of private persons,
18 including real estate and loan portfolio asset management, property
19 management, auction marketing, and brokerage services, if such
20 services are available in the private sector and the agency
21 determines utilization of such services are practicable and
22 efficient.】¹

23
24 ¹【28. (New section) a. (1) To implement the program, the
25 agency shall enter into contracts or loans, or both, with no more
26 than two qualified community development financial institutions to
27 negotiate, bid for, and purchase eligible properties and mortgage
28 assets from institutional lenders for the purpose of producing
29 affordable housing. In selecting contractors from among qualified
30 community development financial institutions, the agency shall
31 accord a strong preference to qualified community development
32 financial institutions that have substantial experience in lending in
33 New Jersey and substantial knowledge of New Jersey real estate
34 markets. The agency may enter into contracts or loans, or both,
35 with a partnership or consortia of organizations, as long as a
36 qualified community development financial institution is the lead
37 entity, or a partnership or consortia of multiple qualified community
38 development financial institutions.

39 (2) The contracts shall specify the amounts, schedules, and
40 types of funding to be provided by the agency to the qualified
41 community development financial institutions, the repayment
42 schedule for the portion of that funding to be repaid, and targeted
43 goals of affordable housing to be produced. The agency may
44 condition funding and goals upon the availability of funds to the
45 agency. The contracts shall specify reasonable administrative costs
46 sufficient to enable the qualified community development financial
47 institutions to exercise their obligations pursuant to sections 22
48 through 34 of P.L. , c. (C.) (pending before the Legislature

1 as this bill). The contracts shall set forth criteria for instances when
2 the purchase, sale, lease, and conveyance of properties as market-
3 rate units furthers the purposes of P.L. , c. (C.) (pending
4 before the Legislature as this bill).

5 b. (1) As soon as possible after the agency or one of its
6 contractors enters into a contract to purchase an eligible property or
7 mortgage asset for use as affordable housing, the agency or
8 contractor shall provide the municipality in which the property is
9 located a 45-day period of time within which the municipal
10 governing body may:

11 (a) consent or withhold consent to the agency's or contractor's
12 purchase of the eligible property for use as affordable housing, or

13 (b) opt to purchase the property in lieu of the agency or
14 contractor in accordance with the provisions set forth in this act.
15 The municipality may waive these rights through written notice to
16 the agency or, if so designated by the agency, its contractors, prior
17 to the expiration of the 45-day period.

18 (2) Those eligible properties purchased by the qualified
19 community development financial institutions and designated
20 pursuant to this act for use as affordable housing shall be restricted
21 for occupancy as affordable housing for a period of 30 years. The
22 restriction shall be set forth in the deed and recorded in the office of
23 the county recording officer of the county wherein the real estate is
24 situated. Affordability controls shall be imposed upon purchase and
25 maintained upon transfer in accordance with the provisions of the
26 Uniform Housing Affordability Controls promulgated by the
27 agency.

28 c. (1) As soon as possible after entering into a contract to
29 purchase an eligible property for use as affordable housing, but not
30 less than five days after the date the agency or its contractors enters
31 into the contract, the agency or its contractors shall provide written
32 notice by personal service or certified mail to the governing body of
33 the municipality within which the eligible property is located. The
34 notice shall inform the municipal governing body of:

35 (a) the agency's or contractor's intent to purchase the eligible
36 property and to restrict it for use as affordable housing for 30 years,

37 (b) the municipality's opportunity to consent or to withhold
38 consent to the proposed purchase and dedication of the property for
39 affordable housing,

40 (c) the municipality's opportunity to purchase the eligible
41 property,

42 (d) the municipality's right of first refusal to purchase the
43 property, and

44 (e) the municipality's right to use monies deposited in its
45 affordable housing trust fund.

46 (2) As soon as possible after entering into a contract to purchase
47 an eligible property, but not less than five days after the date the
48 agency or its contractors enters into the contract, the agency or its

1 contractors shall list the property on the Department of the
2 Treasury's website. The listing shall contain basic information
3 about the property, including but not limited to location, condition,
4 and information relating to the estimated fair market value of the
5 property. The agency or its contractors shall make information
6 about the listing available to the agency and, upon request, to
7 municipalities, other public agencies, community development
8 corporations, developers, and qualifying households.

9 (3) The agency or its contractors shall allow public agencies,
10 community development corporations, developers, and qualifying
11 households reasonable access to an eligible property for purposes of
12 inspection.

13 d. (1) In order to consent or withhold consent to the proposed
14 purchase and dedication of an eligible property as affordable
15 housing or exercise its right to purchase an eligible property, the
16 governing body of the municipality shall provide written notice to
17 the executive director of the agency or, if so designated by the
18 agency, its contractors, within 45 days of the municipality's receipt
19 of the notice required pursuant to subsection c. of this section.

20 (2) The governing body of a municipality may adopt a
21 resolution authorizing the mayor or other designated municipal
22 official to respond to notices received pursuant to subsection c. of
23 this section. The resolution may establish parameters for that
24 exercise of authority, including but not limited to the total amount
25 of funds that may be expended and the amount that may be
26 expended for each unit of housing.

27 (3) A municipality may use any available funding sources to
28 purchase eligible properties or mortgage assets through the agency
29 pursuant to sections 22 through 34 of P.L. , c. (C.)
30 (pending before the Legislature as this bill), except for funds that
31 are dedicated to another purpose by law, covenant, or other
32 obligation.

33 (4) Whenever a municipality does not exercise an option to
34 purchase an eligible property under this section or withhold consent
35 to the proposed purchase and dedication of the property for
36 affordable housing within 45 days of the municipality's receipt of
37 the notice required pursuant to subsection c. of this section, the
38 agency or its contractors may convey the property for occupancy as
39 affordable housing subject to a 30-year deed restriction to another
40 public agency, a community development corporation, a developer,
41 or a qualifying household or the contractors may lease the property
42 for occupancy as affordable housing subject to a 30-year deed
43 restriction. A municipality that does not exercise an option to
44 purchase an eligible property under this section may adopt a
45 resolution authorizing the agency or its contractors to use monies
46 deposited in that municipality's affordable housing trust fund, up to
47 and including the negotiated purchase price of the eligible property,
48 and apply those funds to the purchase of the eligible property.

1 e. Notwithstanding any other provision of this section to the
2 contrary, the agency and, if authorized by contract, its contractors,
3 may purchase, sell, lease, and convey market rate-units without
4 offering those units to the municipality and without imposing
5 affordability controls upon the property if the purchase, sale, lease,
6 and conveyance of those properties as market-rate units satisfy
7 criteria established pursuant to contract in accordance with
8 subsection a. of this section and does not violate the terms of any
9 other provision of law or requirement, including those governing
10 the use of funds used to make the purchase.

11 f. All purchases, sales, leases, and conveyances of property by
12 qualified community development financial institutions exercised
13 pursuant to this section shall be deemed to lessen the burdens of
14 government in furthering the purposes of sections 22 through 34 of
15 P.L. , c. (C.) (pending before the Legislature as this bill).¹

16
17 ¹[29. (New section) a. A municipality that purchases an eligible
18 property pursuant to sections 22 through 34 of P.L. , c. (C.)
19 (pending before the Legislature as this bill) shall sell and convey or
20 lease the housing unit or units acquired within 60 days of the date
21 of purchase, unless it is not possible to do so due to practical or
22 market conditions. In the event that an eligible property is not
23 conveyed or leased within 180 days of the date of purchase, or
24 remains vacant for a 180-day period during the pendency of
25 affordability controls, the agency may commence proceedings to
26 take control of the property and to sell and convey or lease the
27 property in furtherance of the purposes of sections 22 through 34 of
28 P.L. , c. (C.) (pending before the Legislature as this bill)
29 and deed restrictions of record.

30 b. The governing body of a municipality that purchases an
31 eligible property pursuant to sections 22 through 34 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill) may, by
33 resolution, authorize the private sale and conveyance or the lease of
34 a housing unit or units acquired pursuant to sections 22 through 34
35 of P.L. , c. (C.) (pending before the Legislature as this
36 bill). Every deed and rental agreement shall contain a provision
37 specifying the requirement that the housing unit or units shall
38 remain available to low- and moderate-income households for a
39 period of at least 30 years.

40 c. Except as provided in subsection d. of this section, whenever
41 the agency, its contractors, or a municipality purchases an eligible
42 property pursuant to sections 22 through 34 of P.L. , c. (C.)
43 (pending before the Legislature as this bill) from monies deposited
44 in the municipality's affordable housing trust fund and dedicates the
45 property for affordable housing, as required by sections 22 through
46 34 of P.L. , c. (C.) (pending before the Legislature as this
47 bill), that municipality shall receive two units of credit towards its

1 affordable housing obligation for each unit of affordable housing
2 dedicated and provided.

3 d. The total number of bonus units of credit beyond the actual
4 units of housing provided pursuant to sections 22 through 34 of
5 P.L. , c. (C.) (pending before the Legislature as this bill)
6 shall not exceed 25 percent of whatever the municipality's
7 affordable housing obligation may be. No unit of affordable
8 housing shall receive the bonus units of credit described in sections
9 22 through 34 of P.L. , c. (C.) (pending before the Legislature
10 as this bill) in addition to any other type of additional units of credit
11 that may be available towards a municipality's affordable housing
12 obligation.】¹

13

14 ¹【30. (New section) The agency and the State Treasurer shall
15 prioritize the allocation of tax-exempt private activity bonds in the
16 amount necessary to effectuate the purposes of sections 22 through
17 34 of P.L. , c. (C.) (pending before the Legislature as this
18 bill) in each year until the agency ceases operation of the program,
19 provided that the proceeds of tax-exempt private activity bonds to
20 support the purposes of sections 22 through 34 of P.L. , c. (C.)
21 (pending before the Legislature as this bill) shall be limited to
22 contracts with and loans to qualified community development
23 financial institutions pursuant to section 28 of P.L. , c. (C.)
24 (pending before the Legislature as this bill)】¹.

25

26 ¹【31. (New section) a. For the purposes of this section:

27 "Foreclosure-impacted municipality" means a municipality that
28 documents a minimum of 10 units of housing that have been
29 foreclosed upon and have remained unsold on a Multiple Listing
30 Service for at least 60 days; and

31 "Units of housing" means units of housing that are not age-
32 restricted and are habitable year-round, including but not limited to,
33 single family homes, condominium units, cooperative units, and
34 mobile homes with at least two bedrooms.

35 b. (1) Prior to the date that a foreclosure-impacted
36 municipality's development fees or payments-in-lieu fees are
37 scheduled to transfer to the "New Jersey Affordable Housing Trust
38 Fund" pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) or
39 section 9 of P.L.2008, c.46 (C.52:27D-329.3), the municipality may
40 adopt a resolution committing the expenditure of municipal
41 affordable housing trust fund monies. These funds shall be used to
42 produce very-low-income, low-income, and moderate-income
43 housing. The resolution shall authorize the transfer of a minimum
44 of \$150,000 from the municipality's municipal affordable housing
45 trust fund to the "Foreclosure to Affordable Housing
46 Transformation Fund" established pursuant to section 32 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill) for use by
48 the agency or its contractors for the provision of affordable housing

- 1 pursuant to this section and the procedures specified in section 28
2 of P.L. , c. (C.) (pending before the Legislature as this
3 bill).
- 4 (2) The resolution may authorize the mayor or other designated
5 municipal official to exercise the municipal powers described in
6 section 28 of P.L. , c. (C.) (pending before the Legislature
7 as this bill). The resolution may establish parameters for that
8 exercise of authority, including but not limited to purchase price
9 levels for the exercise of that power.
- 10 c. (1) The agency or its contractors shall use funds transferred
11 pursuant to subsection b. of this section to produce very-low-, low-,
12 and moderate-income housing within the municipality transferring
13 funds pursuant to this section, with a deed restriction specifying that
14 the housing unit or units shall remain available to low- and
15 moderate-income households for a period of at least 30 years.
- 16 (2) If the agency or its contractors are unable to utilize some or
17 all of the funds provided to produce affordable housing within the
18 municipality within two years of the transfer of such funds to the
19 "Foreclosure to Affordable Housing Transformation Fund"
20 established pursuant to section 32 of P.L. , c. (C.) (pending
21 before the Legislature as this bill), the funds shall be returned to the
22 municipality as soon as practicable after the two-year anniversary of
23 such transfer. From the date any such funds are returned to the
24 municipality, the municipality shall be required to commit the funds
25 in accordance with section 8 of P.L.2008, c.46 (C.52:27D-329.2) or
26 section 9 of P.L.2008, c.46 (C.52:27D-329.3), as applicable, within
27 the time constraints set forth in those sections or within six months
28 after the date of transfer of funds back to the municipality,
29 whichever is later.
- 30 d. Affordable housing created pursuant to this section through
31 the "Foreclosure to Affordable Housing Transformation Fund"
32 established pursuant to section 32 of P.L. , c. (C.) (pending
33 before the Legislature as this bill), shall receive additional
34 affordable housing credit as set forth in subsection c. of section 29
35 of P.L. , c. (C.) (pending before the Legislature as this
36 bill), even if the municipality does not exercise its right to purchase
37 the property.
- 38 e. No agency of the State of New Jersey shall take any action
39 to transfer funds from a municipal affordable housing trust fund to
40 the "New Jersey Affordable Housing Trust Fund" established
41 pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) when
42 such funds are designated to effectuate the purposes of sections 22
43 through 34 of P.L. , c. (C.) (pending before the Legislature
44 as this bill) during the timeframes established in this section.
45 Nothing in P.L. , c. (C.) (pending before the Legislature as
46 this bill) shall be construed as requiring the State to spend monies
47 that have been deposited in the General Fund to effectuate the

1 purposes of sections 22 through 34 of P.L. , c. (C.)
2 (pending before the Legislature as this bill).¹

3
4 ¹[32. (New section) a. There is established within the agency a
5 "Foreclosure to Affordable Housing Transformation Fund," which
6 shall be a non-lapsing, revolving fund and which shall be the
7 repository for funds appropriated or otherwise made available for
8 the purposes of sections 22 through 34 of P.L. , c. (C.)
9 (pending before the Legislature as this bill), and any interest earned
10 thereon. The fund shall be administered by the agency, in
11 accordance with its authority under section 5 of P.L.1983, c.530
12 (C.55:14K-5) to manage funds for housing programs.

13 b. The agency may transfer into the "Foreclosure to Affordable
14 Housing Transformation Fund" any amounts held or received by the
15 agency that may be used for the production of affordable housing
16 and that is needed by the agency or its contractors for the purchase
17 of eligible property. Subject to the provisions of sections 20
18 through 28 of P.L.1983, c.530 (C.55:14K-20 through C.55:14K-28),
19 the agency is authorized to issue its bonds to fund the activities of
20 the program; provided, however, that tax-exempt bonds shall only
21 be issued consistent with the requirements of section 30 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill).

23 c. In any year in which the proceeds from the receipts of the
24 additional fee collected pursuant to paragraph (2) of subsection a. of
25 section 3 of P.L.1968, c.49 (C.46:15-7) exceeds \$75 million, the
26 first \$10 million above the \$75 million collected shall be transferred
27 into the "Foreclosure to Affordable Housing Transformation Fund"
28 for the purposes of the production of affordable housing.

29 d. Notwithstanding any provision of law to the contrary, the
30 Commissioner of Community Affairs may transfer into the
31 "Foreclosure to Affordable Housing Transformation Fund" amounts
32 held for the production of affordable housing and not designated for
33 a specific purpose beyond the overall production of affordable
34 housing by the annual budget, including but not limited to monies
35 deposited in the "New Jersey Affordable Housing Trust Fund,"
36 which amounts are needed by the agency for the purchase of
37 eligible property. The commissioner shall consider the transfer of
38 funds from the "New Jersey Affordable Housing Trust Fund" to the
39 "Foreclosure to Affordable Housing Transformation Fund" as a
40 priority for funding until the agency ceases the program's
41 operations.

42 e. All amounts deposited into the "Foreclosure to Affordable
43 Housing Transformation Fund" that are derived from federal
44 funding sources or are otherwise dedicated to the production of
45 affordable housing shall be used exclusively for the production of
46 affordable housing. The agency may use other funds for the
47 production of affordable housing or market rate housing.

1 f. The agency may use annually up to three percent of the
2 monies available in the fund for the payment of any necessary
3 administrative costs related to the administration of sections 22
4 through 34 of P.L. , c. (C.) (pending before the Legislature
5 as this bill).¹

6
7 ¹[33. (New section) a. On or before the last day of March in
8 each year, the agency shall make an annual report of the program's
9 activities for the preceding calendar year, and the program's
10 planned activities for the current and following calendar year, to the
11 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
12 19.1), to the Legislature. The agency shall display the annual
13 reports on the agency's website.

14 b. Each annual report shall set forth the current nature and
15 extent of foreclosure activity in New Jersey and shall depict
16 changes in foreclosure activity from the prior calendar year. The
17 report shall set forth a complete operating and financial statement
18 covering the program's operations, transactions, and holdings
19 during the preceding year, including but not limited to:

- 20 (1) the total number of re-capitalized market rate units; and
21 (2) the total numbers of very-low-income, low-income, and
22 moderate-income units that were produced for sale and for rental in
23 the preceding year pursuant to this act, their locations by
24 municipality, and the sources of financing used.¹

25
26 ¹[34. (New section) The agency shall cease the program's
27 operations on December 31, 2017. On that date, any assets,
28 liabilities, properties, or funds held by the agency shall transfer to
29 other authorized programs operated by the agency.¹

30
31 ¹[35.] 22.¹ This act shall take effect immediately.