

[First Reprint]

SENATE, No. 4175

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED NOVEMBER 30, 2023

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Revises various requirements of New Jersey Aspire Program and establishes Redevelopment Project Bridge Financing Program.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 14, 2023, with amendments.



1 AN ACT concerning the New Jersey Aspire Program, amending
2 various parts of the statutory law, and supplementing P.L.2020,
3 c.156.

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

7
8 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
9 read as follows:

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

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

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

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

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

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

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

40 "Collaborative workspace" means coworking, accelerator,
41 incubator, or other shared working environments that promote
42 collaboration, interaction, socialization, and coordination among
43 tenants through the clustering of multiple businesses or individuals.
44 For this purpose, the collaborative workspace shall be the greater of:
45 2,500 of dedicated square feet or 10 percent of the total property on

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 SBA committee amendments adopted December 14, 2023.

1 which the redevelopment project is situated. The collaborative
2 workspace shall include a community manager, be focused on
3 collaboration among the community members, and include regularly
4 scheduled education events for the community members. The
5 collaborative workspace shall also include a physical open space that
6 supports the engagement of its community members.

7 "Commercial project" means a redevelopment project, which is
8 predominantly commercial and, if located in a government-restricted
9 municipality, contains 25,000 or more square feet, or if located in any
10 other municipality, contains 50,000 or more square feet of office and
11 retail space, industrial space including¹, but not limited to, any
12 industrial¹ space¹ that is¹ predominantly used for warehouse
13 distribution or fulfillment centers¹ and has at least \$10 million in
14 environmental remediation costs¹, or film studios, professional stages,
15 television studios, recording studios, screening rooms, or other
16 infrastructure for film production, and may include a parking
17 component. The term "commercial project" includes a redevelopment
18 project comprised solely of a health care or health services center,
19 which contains not less than 10,000 square feet devoted to health care
20 or health services, and which may include a parking component.

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

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

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

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

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

1 such period shall be determined by the authority pursuant to subsection
2 b. of section 60 of P.L.2020, c.156 (C.34:1B-328).

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

9 "Environmental remediation costs" means any costs incurred by a
10 developer in the completion of any actions necessary to investigate,
11 clean up, or respond to a known, suspected, or threatened discharge of
12 contaminants, including, as necessary, the preliminary assessment, site
13 investigation, remedial investigation, and remedial action, pursuant to
14 sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1
15 et seq.).

16 "Food delivery source" means access to nutritious foods, such as
17 fresh fruits and vegetables, through grocery operators, including, but
18 not limited to a full-service supermarket or grocery store, and other
19 healthy food retailers of at least 16,000 square feet, including, but not
20 limited to, a prepared food establishment selling primarily nutritious
21 ready-to-serve meals.

22 "Food desert community" means a physically contiguous area in
23 the State in which residents have limited access to nutritious foods,
24 such as fresh fruits and vegetables, and that has been designated as a
25 food desert community pursuant to subsection b. of section 38 of
26 P.L.2020, c.156 (C.34:1B-306).

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

40 "Health care or health services center" means an establishment that
41 consists of not less than 10,000 square feet devoted to health care or
42 health services, where patients are admitted for or seek examination
43 and treatment by one or more physicians, dentists, psychologists, or
44 other medical practitioners, and which is located in a municipality with
45 a Municipal Revitalization Index distress score of at least 50, a
46 distressed municipality, or a qualified incentive tract.

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

4 "Incentive area" means an aviation district; a port district; an area
5 designated pursuant to the "State Planning Act," P.L.1985, c.398
6 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning
7 Area 2 (Suburban), **[or]** a Designated Center, **[provided an area**
8 **designated as Planning Area 2 (Suburban) or a Designated Center shall**
9 **be located within a one-half mile radius of the mid-point, with bicycle**
10 **and pedestrian connectivity, of a New Jersey Transit Corporation, Port**
11 **Authority Transit Corporation, or Port Authority Trans-Hudson**
12 **Corporation rail, bus, or ferry station, including all light rail stations,**
13 **or a high-frequency bus stop as certified by the New Jersey Transit**
14 **Corporation]** or an Endorsed Plan; an area designated as a brownfield
15 site pursuant to the "Brownfield and Contaminated Site Remediation
16 Act," sections 23 through 43 and section 45 of P.L.1993, c.139
17 (C.58:10B-1 et seq.); and an area of not less than 100 acres for which a
18 licensed site remediation professional has certified environmental
19 remediation costs, as defined in this section and in accordance with the
20 "Site Remediation Reform Act," sections 1 through 29 of P.L.2009,
21 c.60 (C.58:10C-1 et seq.), in an amount not less than \$10,000,000,
22 provided that any portion of such area is located in an area that
23 otherwise qualifies as an incentive area.

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

28 "Incentive award agreement" means the contract executed between
29 a developer and the authority pursuant to section 60 of P.L.2020, c.156
30 (C.34:1B-328), which sets forth the terms and conditions under which
31 the developer may receive the incentive awards authorized pursuant to
32 the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
33 322 through 34:1B-335).

34 "Incubator facility" means a commercial property, which contains
35 5,000 or more square feet of office, laboratory, or industrial space,
36 which is located near, and presents opportunities for collaboration
37 with, a research institution, teaching hospital, college, or university,
38 and within which at least 75 percent of the gross leasable area is
39 restricted for use by one or more technology startup companies.

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

47 "Labor harmony agreement" means an agreement between a
48 business that serves as the owner or operator of a retail establishment,

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

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

31 "Major cultural institution" means a public or nonprofit institution,
32 not including an institution of higher education, within this State that
33 engages in the cultural, intellectual, scientific, environmental,
34 educational, or artistic enrichment of the people of this State, and
35 which institution is designated by the board as a major cultural
36 institution.

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

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

1 "Mixed-use project" means a redevelopment project that includes
2 both a residential component and a nonresidential component.

3 "Moderate-income housing" means housing affordable according
4 to federal Department of Housing and Urban Development or other
5 recognized standards for home ownership and rental costs and
6 occupied or reserved for occupancy by households with a gross
7 household income equal to more than 50 percent, but less than 80
8 percent, of the median gross household income for households of the
9 same size within the housing region in which the housing is located.

10 "Municipal Revitalization Index" means the index by the
11 Department of Community Affairs ranking New Jersey's
12 municipalities according to eight separate indicators that measure
13 diverse aspects of social, economic, physical, and fiscal conditions in
14 each locality.

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

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

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

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

27 "Project cost" or "total project cost" means the costs incurred in
28 connection with a redevelopment project by a developer until the
29 issuance of a permanent certificate of occupancy, or until such other
30 time specified by the authority, for a specific investment or
31 improvement, including the costs relating to lands, except the cost of
32 acquiring such lands, buildings, improvements, real or personal
33 property, or any interest therein, including leases discounted to present
34 value, including lands under water, riparian rights, space rights, and air
35 rights acquired, owned, developed or redeveloped, constructed,
36 reconstructed, rehabilitated, or improved, any environmental
37 remediation costs, plus costs not directly related to construction,
38 including capitalized interest paid to third parties, of an amount not to
39 exceed 20 percent of the total costs and the cost of infrastructure
40 improvements, including ancillary infrastructure projects. When 100
41 percent of the residential units constructed in a residential project are
42 reserved for occupancy by low- and moderate-income households, the
43 term "project cost" shall also include the developer fees paid before
44 acquiring permanent financing, as well as the deferred developer fees
45 approved pursuant to the rules established by the agency. In addition
46 to the foregoing, the term "project cost" shall include the following
47 costs when incurred by a developer for a redevelopment project
48 located in a government restricted municipality: any development,

1 redevelopment, and relocation costs, including, but not limited to, land
2 and building acquisition costs; any soft costs, including engineering,
3 legal, accounting, and other professional services required for the
4 completion of the project; any environmental remediation costs; and
5 any infrastructure improvement for the project area, including, but not
6 limited to, costs of on- and off-site utility, road, pier, wharf, bulkhead,
7 or sidewalk construction or repair. The fees associated with the
8 application or administration of a grant under sections 54 through 67
9 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall not
10 constitute a project cost, regardless of the location of the
11 redevelopment project.

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

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

37 "Qualified incentive tract" means (i) a population census tract
38 having a poverty rate of 20 percent or more; or (ii) a census tract in
39 which the median family income for the census tract does not exceed
40 80 percent of the greater of the Statewide median family income or the
41 median family income of the metropolitan statistical area in which the
42 census tract is situated.

43 "Quality childcare facility" is a child care center licensed by the
44 Department of Children and Families or a registered family child care
45 home with the Department of Human Services, operating
46 continuously, which has not been subject to an enforcement action,
47 and which has and maintains a licensed capacity for children age 13
48 years or younger who attend for less than 24 hours a day.

1 "Reasonable and appropriate return on investment" means the
2 discount rate at which the present value of the future cash flows of an
3 investment equals the cost of the investment. In determining the
4 "reasonable and appropriate return on investment," an investment shall
5 not include any federal, State, or local tax credits. For a residential
6 project that utilizes federal low-income housing tax credits awarded by
7 the agency, the "reasonable and appropriate return on investment"
8 shall be based on the approval of deferred developer fees pursuant to
9 the rules established by the agency. In the event that a residential
10 project, which utilizes federal low-income housing tax credits awarded
11 by the agency, generates returns on equity other than federal or local
12 grants or proceeds from the sale of federal or local tax credits, the
13 "reasonable and appropriate return on investment" shall be based on
14 both the discount rate at which the present value of the future cash
15 flows of an investment equal the cost of the investment for the entire
16 project, and when evaluating only the units financed with federal low-
17 income housing tax credits awarded by the agency, the approval of
18 deferred developer fees pursuant to the rules established by the
19 agency.

20 "Redevelopment project" means a specific construction project or
21 improvement or phase of a project or improvement undertaken by a
22 developer, owner or tenant, or both, and any ancillary infrastructure
23 project. A redevelopment project may involve construction or
24 improvement upon lands, buildings, improvements, or real and
25 personal property, or any interest therein, including lands under water,
26 riparian rights, space rights, and air rights, acquired, owned, developed
27 or redeveloped, constructed, reconstructed, rehabilitated, or improved.

28 "Residential project" means a redevelopment project that is
29 predominantly residential, intended for multi-family residency, and
30 may include a parking component.

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

33 "SDA municipality" means a municipality in which an SDA
34 district is situated.

35 "Stranded asset" means any building previously used for
36 commercial, retail, office space, manufacturing, or industrial purposes,
37 which building is no longer used for such purposes, and which has
38 been abandoned, experienced significant vacancies for at least two
39 consecutive years, or has fallen into such disrepair as to be
40 untenantable.

41 "Technology startup company" means a for-profit business that has
42 been in operation fewer than seven years at the time that it initially
43 occupies or expands in a qualified business facility and is developing
44 or possesses a proprietary technology or business method of a high
45 technology or life science-related product, process, or service, which
46 proprietary technology or business method the business intends to
47 move to commercialization. The business shall be deemed to have

1 begun operation on the date that the business first hired at least one
2 employee in a full-time position.

3 "Total **[project]** development cost" or "total redevelopment cost"
4 means the costs incurred in connection with the redevelopment project
5 by the developer until the issuance of a permanent certificate of
6 occupancy, or upon such other event evidencing project completion as
7 set forth in the incentive grant agreement, for a specific investment or
8 improvement.

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

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

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

29 "Transit Village" means a municipality that has been designated as
30 a transit village by the Commissioner of Transportation and the Transit
31 Village Task Force established pursuant to P.L.1985, c.398 (C.27:1A-
32 5).

33 (cf: P.L.2023, c.98, s.1)

34

35 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
36 read as follows:

37 56. a. (1) The New Jersey Aspire Program is hereby established
38 as a program under the jurisdiction of the New Jersey Economic
39 Development Authority. The authority shall administer the
40 program to encourage redevelopment projects through the provision
41 of incentive awards to reimburse developers for certain project
42 financing gap costs. The board may approve the award of an
43 incentive award to a developer upon application to the authority
44 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
45 C.34:1B-327). The value of all tax credits approved by the
46 authority pursuant to sections 54 through 67 of P.L.2020, c.156
47 (C.34:1B-322 through 34:1B-335) shall be subject to the limitations
48 set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

1 (2) The authority, in consultation with the agency, shall adopt
2 rules and regulations, pursuant to subsection b. of section 67 of
3 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
4 administration of the affordability controls that shall apply to the
5 residential units constructed for occupancy by low- and moderate-
6 income households under the program, including, but not limited to,
7 residential units within residential projects that utilize federal low-
8 income housing tax credits awarded by the agency.
9 Notwithstanding any provision of law or regulation to the contrary,
10 the affordability controls shall, at a minimum, be consistent with the
11 affordability controls established in the rules and regulations
12 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
13 (C.52:27D-301 et al.), as in effect immediately prior to the effective
14 date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not
15 limited to, any requirements concerning the **【bedroom**
16 **distributions,】** affordability averages, affirmative marketing, and
17 long-term deed restrictions of residential units constructed for
18 occupancy by low- and moderate-income households, except not
19 including the bedroom distribution requirements for three-bedroom
20 housing units.

21 b. The chief executive officer of the authority shall designate
22 one staff member per government-restricted municipality in order to
23 keep the municipality informed on activities within the municipality
24 and to coordinate economic development initiatives.
25 (cf: P.L.2023, c.98, s.2)

26
27 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
28 read as follows:

29 57. a. Prior to March 1, 2029, a developer shall be eligible to
30 receive an incentive award for a redevelopment project only if the
31 developer demonstrates to the authority at the time of application that:

32 (1) without the incentive award, the redevelopment project is not
33 economically feasible;

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

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

39 (4) ¹(a)¹ except for demolition and site remediation activities, the
40 developer has not commenced any construction at the site of the
41 redevelopment project prior to submitting an application, unless the
42 authority determines that the redevelopment project would not be
43 completed otherwise or, in the event the redevelopment project is to be
44 undertaken in phases, the requested incentive award is limited to only
45 phases for which construction has not yet commenced;

46 ¹(b) if the developer has commenced demolition and site
47 remediation activities at the site of the redevelopment project prior to
48 submitting an application, all construction workers employed to

1 undertake demolition and site remediation activities at the site were
2 paid not less than the prevailing wage rate for the worker's craft or
3 trade, as determined by the Commissioner of Labor and Workforce
4 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
5 P.L.2005, c.379 (C.34:11-56.58 et seq.);¹

6 (5) the redevelopment project shall comply with minimum
7 environmental and sustainability standards;

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

11 (7) (a) during the eligibility period, each worker employed to
12 perform construction work at the redevelopment project shall be paid
13 not less than the prevailing wage rate for the worker's craft or trade, as
14 determined by the Commissioner of Labor and Workforce
15 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
16 P.L.2005, c.379 (C.34:11-56.58 et seq.);

17 (b) during the eligibility period, each worker employed to perform
18 building services work at the redevelopment project, whether pursuant
19 to contract by the developer or a commercial tenant, commercial
20 subtenant, or other commercial occupant, shall be paid not less than
21 the prevailing wage rate for the worker's craft or trade, as determined
22 by the Commissioner of Labor and Workforce Development pursuant
23 to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
24 (C.34:11-56.58 et seq.), except that this requirement shall not apply to
25 workers employed to perform building services work by **[a]** any
26 residential tenant or any commercial tenant, commercial subtenant, or
27 other commercial occupant that has a leasehold interest or other
28 occupancy right in a redevelopment project, which leasehold interest
29 or other occupancy right encompasses less than 5,000 square feet of
30 space within the project. The developer shall include in all
31 commercial leases or other commercial occupancy agreements, and
32 shall require that all subleases or other commercial occupancy
33 agreements applicable to the redevelopment project include, a
34 provision setting forth the requirements of this subparagraph, which
35 provision shall be in a form acceptable to the authority.
36 Notwithstanding any provisions of law to the contrary, if a commercial
37 tenant, commercial subtenant, or other commercial occupant violates
38 this provision due to the underpayment of the required prevailing wage
39 rate, then the issuance of tax credits to the developer and any co-
40 applicant shall be delayed until such time as documentation
41 demonstrating compliance has been provided to the Commissioner of
42 Labor and Workforce Development, subsequently reviewed and
43 approved by the Commissioner of Labor and Workforce Development,
44 and verified by the authority, which reviews and verification shall be
45 completed. If a violation is not cured, or is not capable of being cured,
46 within one year of receipt of notice of the violation, then the developer
47 and any co-applicant shall forfeit 50 percent of the tax credits
48 otherwise authorized for the tax period in which the notice of violation

1 was issued. If the violation is not cured on or before the conclusion of
2 that tax period, the developer and any co-applicant shall forfeit up to
3 100 percent of the tax credits otherwise authorized, as determined by
4 the authority, in each subsequent tax period until the first tax period
5 for which documentation demonstrating compliance has been provided
6 to the Commissioner of Labor and Workforce Development,
7 subsequently reviewed and approved by the Commissioner of Labor
8 and Workforce Development, and verified by the authority, which
9 reviews and verifications shall be completed. In this event, the
10 developer and any co-applicant shall be allowed the full tax credit
11 amount beginning in the tax period in which documentation of
12 compliance was reviewed and approved by the Commissioner of
13 Labor and Workforce Development and verified by the authority,
14 including each subsequent tax period in which the tax credits are
15 otherwise authorized;

16 (c) in the event a redevelopment project, or any portion thereof, is
17 undertaken by a tenant pursuant to a contract and the tenant has a
18 leasehold of more than 55 percent of space in the building owned or
19 controlled by the developer, the requirement that each worker
20 employed to perform building service work at the building be paid not
21 less than the prevailing wage shall apply to the entire building, except
22 as otherwise provided in subparagraph (b) of this paragraph for all
23 residential tenants and all commercial tenants, commercial subtenants,
24 or other commercial occupants with a leasehold interest or other
25 occupancy right encompassing less than 5,000 square feet;

26 (8) (a) the redevelopment project shall be completed, and the
27 developer shall be issued a certificate of occupancy for the
28 redevelopment project facilities by the applicable enforcing agency,
29 within four years of executing the incentive award agreement, or in the
30 case of a redevelopment project with a project cost in excess of
31 \$50,000,000, the incentive phase agreement corresponding to the
32 redevelopment project; or

33 (b) in the discretion of the authority, a redevelopment project with
34 a project cost in excess of \$50,000,000, and that is authorized to be
35 completed in phases, may be allowed no more than six years from the
36 date on which the incentive award agreement is executed to be issued a
37 certificate of occupancy by the applicable enforcement agency;

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

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

45 b. In addition to the requirements set forth in subsection a. of this
46 section, for a commercial project to qualify for an incentive award the
47 developer shall demonstrate that the developer shall contribute capital
48 of at least 20 percent of the total project cost, except that if a

1 redevelopment project is located in a government-restricted
2 municipality, the developer shall contribute capital of at least 10
3 percent of the total project cost.

4 c. In addition to the requirements set forth in subsection a. of this
5 section, for a residential project or a commercial project comprised
6 solely of a health care or health service center to qualify for an
7 incentive award, the residential project or health care or health service
8 center shall:

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

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

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

17 d. In addition to the requirements set forth in subsections a. and c.
18 of this section, for a residential project consisting of newly-constructed
19 residential units to qualify for an incentive award, the developer shall
20 reserve at least 20 percent of the residential units constructed for
21 occupancy by low- and moderate-income households with
22 affordability controls as adopted by the authority, in consultation with
23 the agency, in accordance with paragraph (2) of subsection a. of
24 section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential
25 project receiving a federal historic rehabilitation tax credit pursuant to
26 section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C.
27 s.47, or a tax credit pursuant to the "Historic Property Reinvestment
28 Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
29 34:1B-276), shall be exempt from the affordability controls related to
30 bedroom distribution.

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

47 f. Beginning on the third year following the date of issuance of a
48 final certificate of occupancy for a commercial project, and through

1 the conclusion of the eligibility period, if the average occupancy rate
2 of the commercial project is less than 60 percent during any applicable
3 tax period, the developer and co-applicant shall forfeit all credits
4 otherwise allowed for the tax period and for each subsequent tax
5 period until the authority verifies documentation, submitted by the
6 developer or co-applicant, demonstrating that the average occupancy
7 rate has reached or surpassed 60 percent for the tax period. The full
8 amount of credit shall be allowed to a developer and any co-applicant
9 for the tax period in which the average occupancy rate reaches or
10 surpasses 60 percent. Occupancy for the tax period shall be
11 determined by the average of the monthly occupancy for the applicable
12 tax period. The occupancy requirement in this subsection shall not
13 apply to residential projects.

14 (cf: P.L.2023, c.98, s.3)

15

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

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

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

33 b. An incentive award agreement shall specify the amount of the
34 incentive award the authority shall award to the developer and the
35 duration of the eligibility period. The duration of the eligibility period
36 **【shall not exceed 15 years for a commercial or mixed-use project and】**
37 **shall not exceed 10 years for a commercial project, mixed-use project,**
38 **or residential project, except that 【to】 the authority shall consider**
39 **reducing the eligibility period if a shorter period would** reduce the total
40 value of tax credits needed to reimburse a developer for all or part of
41 the project financing gap of a redevelopment project, **【the authority**
42 **may, in its discretion, approve a duration for the eligibility period that**
43 **is shorter than the applicable maximum periods】 enhance access to tax**
44 **credit monetization on cost effective terms, or otherwise enhance the**
45 **effectiveness of the program.** The incentive award agreement shall
46 provide an estimated date of completion and include a requirement for
47 periodic progress reports, including the submittal of executed
48 financing commitments and documents that evidence site control;

1 provided however, that the developer may sell one or more buildings
2 during the eligibility period, provided that such sale is: an arms-length
3 transaction to an unrelated party, or for an amount at least equal to fair
4 market value based on an appraisal conducted within one year; and
5 subject to the purchaser's assumption of all obligations relating to the
6 buildings pursuant to sections 54 through 67 of P.L.2020, c.156
7 (C.34:1B-322 through C.34:1B-335). If the authority does not receive
8 periodic progress reports, or if the progress reports demonstrate
9 unsatisfactory progress, then the authority may rescind the incentive
10 award. If the authority rescinds an incentive award in the same
11 calendar year in which the authority approved the incentive award,
12 then the authority may assign the incentive award to another applicant.
13 The incentive award agreement may also provide for a verification of
14 the financing gap at the time the developer provides executed
15 financing commitments to the authority and a verification of the
16 developer's projected cash flow at the time of certification that the
17 project is completed.

18 c. To ensure the protection of taxpayer money, if the authority
19 determines at project certification that the actual capital financing
20 approach utilized by the project has resulted in a financing gap that is
21 smaller than the financing gap determined at board approval, the
22 authority shall reduce the amount of the tax credit or accept payment
23 from the developer on a pro rata basis. If there is no project financing
24 gap due to the actual capital financing approach utilized by the project,
25 then the developer shall forfeit the incentive award. At the end of the
26 seventh year of the eligibility period, the authority shall evaluate the
27 developer's rate of return on investment and compare that rate of return
28 on investment to the reasonable and appropriate rate of return at the
29 time of board approval. If the actual rate of return on investment
30 exceeds the reasonable and appropriate rate of return on investment at
31 the time of board approval by more than 15 percent, the authority shall
32 require the developer to pay up to 20 percent of the amount in excess
33 of the reasonable and appropriate rate of return on investment. The
34 authority shall require an escrow account to be held by the authority
35 until the end of the eligibility period. Following the final year of the
36 eligibility period, the authority shall determine if the developer's rate
37 of return exceeded the reasonable and appropriate rate of return
38 determined at board approval. If the final rate of return does not
39 exceed the reasonable and appropriate rate of return determined at
40 board approval, the authority shall release to the developer the
41 escrowed funds. If the project final rate of return exceeds the
42 reasonable and appropriate rate of return determined at board approval,
43 the authority shall require the developer to pay up to 20 percent of the
44 amount of the excess, which shall include the funds held in escrow,
45 and such funds shall be deposited in the State General Fund.

46 d. The incentive award agreement shall include a requirement that
47 the authority confirm with the Department of Environmental
48 Protection, the Department of Labor and Workforce Development, and

1 the Department of the Treasury that the developer is in substantial
2 good standing with the respective department, or the developer has
3 entered into an agreement with the respective department that includes
4 a practical corrective action for the developer, and the developer shall
5 confirm that each contractor or subcontractor performing work at the
6 redevelopment project: (1) is registered as required by "The Public
7 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48
8 et seq.); (2) has not been debarred ¹, suspended, or disqualified¹ by the
9 Department of Labor and Workforce Development from engaging in
10 or bidding on Public Works Contracts in the State ¹, or been debarred,
11 suspended, or disqualified by a federal agency from engaging in
12 federally-funded construction projects or bidding on federal
13 contracting opportunities¹; and (3) possesses a tax clearance certificate
14 issued by the Division of Taxation in the Department of the Treasury.
15 The incentive award agreement shall also include a provision that the
16 developer shall forfeit the incentive award in any year in which the
17 developer is neither in substantial good standing with each department
18 nor has entered into a practical corrective action. The incentive award
19 agreement shall also require a developer to engage in on-site
20 consultations with the Division of Workplace Safety and Health in the
21 Department of Health.

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

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

44 (3) (Deleted by amendment, P.L.2023, c.98)

45 f. (1) Except for a residential project that is located in a
46 government-restricted municipality, and in which 100 percent of the
47 residential units constructed in the residential project are reserved for
48 occupancy by low- and moderate-income households, for a

1 redevelopment project whose total project cost equals or exceeds \$10
2 million, in addition to the incentive award agreement, a developer shall
3 enter into a community benefits agreement with the authority and the
4 county or municipality in which the redevelopment project is located.
5 The agreement may include, but shall not be limited to, requirements
6 for training, employment, and youth development and free services to
7 underserved communities in and around the community in which the
8 redevelopment project is located. Prior to entering a community
9 benefits agreement, the governing body of the county or municipality
10 in which the redevelopment project is located shall hold at least one
11 public hearing at which the governing body shall hear testimony from
12 residents, community groups, and other stakeholders on the needs of
13 the community that the agreement should address.

14 (2) The community benefits agreement shall provide for the
15 creation of a community advisory committee to oversee the
16 implementation of the agreement, monitor successes, ensure
17 compliance with the terms of the agreement, and produce an annual
18 public report. The community advisory committee created pursuant to
19 this paragraph shall be comprised of representatives of diverse
20 community groups and residents of the county or municipality in
21 which the redevelopment project is located.

22 (3) At the time the developer submits the annual report required
23 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
24 authority, the developer shall certify, under the penalty of perjury, that
25 it is in compliance with the terms of the community benefits
26 agreement. If the developer fails to provide the certification required
27 pursuant to this paragraph or the authority determines that the
28 developer is not in compliance with the terms of the community
29 benefits agreement based on the reports submitted by the community
30 advisory committee pursuant to paragraph (2) of this subsection, then
31 the authority may rescind an award or recapture all or part of any tax
32 credits awarded.

33 (4) Notwithstanding any requirement of this subsection to the
34 contrary, a developer shall be considered to have met the requirements
35 of a community benefits agreement **【pursuant to this subsection】**, and
36 the requirements of paragraphs (2) and (3) of this subsection shall not
37 apply, if the developer submits to the authority:

38 (a) a copy of either the developer's approval letter from the
39 authority or a redevelopment agreement applicable to the qualified
40 business facility, provided that the approval letter is certified by the
41 municipality or the redevelopment agreement is 【certified】 adopted by
42 resolution at a public meeting by the municipality in which the
43 redevelopment project is located, and includes provisions that meet **【or**
44 **exceed】** the **【standards】** community benefit required **【for】** under
45 a community benefits agreement in this subsection **【**, as determined by
46 the chief executive officer pursuant to rules adopted by the authority**】**;
47 or

1 (b) a resolution adopted by the governing body of the municipality
2 in which the redevelopment project is located, which resolution shall
3 be adopted after at least one public hearing at which the governing
4 body provides an opportunity for residents, community groups, and
5 other stakeholders to testify, and which resolution shall state that the
6 governing body has determined that the redevelopment project will
7 provide economic and social benefits to the community that fulfill the
8 purposes of this subsection, which benefits render a separate
9 community benefit agreement unnecessary, and explain the reasons
10 supporting the governing body's determination.

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

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

26 i. The incentive award agreement shall include one or more
27 provisions, as determined by the authority, concerning the terms and
28 conditions for default and the remedies for the developer of a
29 redevelopment project in the event of default. The incentive award
30 agreement shall not allow the authority to declare a cross-default when
31 the developer of a redevelopment project, including any business
32 affiliate of the developer or any other entity with common principals
33 as the developer, is in default with any other assistance program
34 administered by the authority.

35 (cf: P.L.2023, c.98, s.6)

36

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

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

46 (1) 80 percent of the total project cost for a redevelopment project
47 that is located in a government-restricted municipality;

1 (2) 60 percent of the total project cost for a residential project that
2 receives a four-percent allocation from the federal Low Income
3 Housing Tax Credit Program administered by the agency ¹₂ or a
4 redevelopment project that is located in a qualified incentive tract,
5 enhanced area, or a municipality with a Municipal Revitalization Index
6 score of at least 50; or

7 (3) 50 percent of the total project cost for any other redevelopment
8 project.

9 b. The value of all tax credits approved by the authority under the
10 program for a redevelopment project phase shall not exceed:

11 (1) \$120,000,000 per redevelopment project or phase for a
12 redevelopment project that is located in a government-restricted
13 municipality;

14 (2) \$90,000,000 per redevelopment project or phase for a
15 redevelopment project that is allowed a tax credit under paragraph (2)
16 of subsection a. of this section; and

17 (3) \$60,000,000 for any other redevelopment project or phase.

18 c. Notwithstanding the limitations set forth in subsection a. of this
19 section, but subject to the limitations of subsections b. and d. of this
20 section and the demonstration of a financing gap, a developer shall be
21 eligible for each of the following enhancements to the total tax credit
22 award:

23 (1) for a redevelopment project that includes the redevelopment of
24 a stranded asset, an enhancement of up to 10 percent of the project cost
25 of the redevelopment project;

26 (2) for a residential project that meets the three-bedroom
27 distribution requirement under the Uniform Housing Affordability
28 Controls, an enhancement of up to five percent of the project cost of
29 the residential project; and

30 (3) for a redevelopment project that meets local first source hiring
31 requirements for residents in the municipality or county ¹**[where]** in
32 which¹ the project is located ¹and in surrounding municipalities, as
33 appropriate¹, an enhancement of up to three percent of the project cost
34 of the redevelopment project.

35 d. Except for a redevelopment project that is located in a
36 government restricted municipality:

37 (1) the total tax credits awarded for the redevelopment project,
38 together with all tax credits awarded under any other program
39 administered by the authority, shall not exceed 80 percent of the
40 project cost of the redevelopment project; and

41 (2) for a redevelopment project that receives tax credits under the
42 Federal Low-Income Housing Tax Credit Program, the total tax credits
43 awarded for the redevelopment project, together with all tax credits
44 awarded under any other program administered by the authority and
45 under the Federal Low-Income Housing Tax Credit Program, shall not
46 exceed 90 percent of the project cost.

47 (cf: P.L.2023, c.98, s.7)

1 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
2 read as follows:

3 62. a. A developer approved for an incentive award pursuant to
4 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-
5 327) and that enters an incentive award agreement pursuant to
6 section 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually,
7 commencing in the year in which the incentive award is issued and
8 for the remainder of the eligibility period, a report indicating
9 whether the developer is aware of any condition, event, or act that
10 would cause the developer not to be in compliance with the
11 incentive award agreement or the provisions of sections 54 through
12 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any
13 additional reporting requirements contained in the incentive award
14 agreement or tax credit certificate. The developer, or an authorized
15 agent of the developer, shall certify that the information provided
16 pursuant to this subsection is true under the penalty of perjury.

17 b. (1) Upon receipt and review of each report submitted during
18 the eligibility period, the authority shall provide to the developer
19 and the director a certificate of compliance indicating the amount of
20 tax credits that the developer may apply against the developer's tax
21 liability.

22 (2) Upon receipt by the director of the certificate of compliance,
23 the director shall allow the developer a credit against the tax
24 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
25 developer shall apply the credit awarded against the developer's
26 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
27 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
28 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
29 period **【during】** identified in the tax credit certificate which the
30 director **【allows】** issues to the developer **【a tax credit】** pursuant to
31 this subsection, or within the three successive tax periods
32 immediately following the tax period in which the tax credit
33 certificate is received by the developer. A developer may carry
34 forward an unused credit resulting from the limitations of paragraph
35 (3) of this subsection, if necessary, for use in the seven privilege
36 periods next following the privilege period for which the credits are
37 **【awarded】** applied. Credits granted to a partnership shall be passed
38 through to the partners, members, or owners, respectively, pro-rata,
39 or pursuant to an executed agreement among the partners, members,
40 or owners documenting an alternate distribution method provided to
41 the director accompanied by any additional information as the
42 director may prescribe.

43 (3) The director shall prescribe the order of priority of the
44 application of the credit allowed under this section and any other
45 credits allowed by law against the tax imposed under section 5 of
46 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
47 under this section against the tax imposed pursuant to section 5 of
48 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with

1 any other credits allowed by law, shall not reduce the tax liability to
2 an amount less than the statutory minimum provided in subsection
3 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
4 (cf: P.L.2022, c.46, s.1)

5

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

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

25 b. The developer shall not sell or assign, including a collateral
26 assignment, a tax credit transfer certificate allowed under this
27 section for consideration received by the developer of less than 85
28 percent of the transferred credit amount before considering any
29 further discounting to present value which shall be permitted,
30 except a developer of a residential project consisting of newly-
31 constructed residential units may assign a tax credit transfer
32 certificate for consideration of less than 85 percent subject to the
33 submission of a plan to the authority and the agency to use the
34 proceeds derived from the assignment of tax credits to complete the
35 residential project, except a developer of a residential project
36 consisting of newly-constructed residential units that has received
37 federal low income housing tax credits under 26 U.S.C.
38 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
39 consideration of no less than 65 percent subject to the submission of
40 a plan to the authority and the New Jersey Housing and Mortgage
41 Finance Agency to use the proceeds derived from the assignment of
42 tax credits to complete the residential project. The tax credit
43 transfer certificate issued to a developer by the director shall be
44 subject to any limitations and conditions imposed on the application
45 of State tax credits pursuant to sections 54 through 67 of P.L.2020,
46 c.156 (C.34:1B-322 through 34:1B-335) and any other terms and
47 conditions that the director may prescribe; provided, however, that
48 the holder of a tax credit certificate may transfer all or part of the

1 tax credit amount, within the three successive tax periods
2 immediately following the tax period in which the tax credit
3 certificate is received by the developer, on or after the date of
4 issuance of the tax credit transfer certificate, for use by the
5 transferee in the tax period for which it was issued or within the
6 three successive tax periods immediately following the tax period in
7 which the tax credit transfer certificate is received by the transferee,
8 and the transferee may carry forward all or part of the tax credit
9 amount in any of the next five successive tax periods after the tax
10 period for which it was used. Notwithstanding any provision of this
11 section to the contrary, the amount of tax credits that may be
12 claimed by the transferee in any tax period shall not exceed the total
13 tax credit amount divided by the duration of the eligibility period in
14 years.

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

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

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

25 e. When a tax credit certificate is issued to a developer after
26 the tax period in which all or part of the tax credits may be used by
27 the developer or a holder of the credit transfer certificate, the
28 developer or transferee shall be allowed to use the tax credit for the
29 same tax period specified in the tax credit certificate, or within the
30 three successive tax periods immediately following the tax period in
31 which the certificate is received by the developer or transferee. In
32 this circumstance, the developer or transferee shall not be required
33 to amend its tax return for the tax period in which it applies the tax
34 credit or for a tax period preceding the tax period in which the tax
35 credit is applied.

36 (cf: P.L.2023, c.98, s.8)

37

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

40 65. a. As used in this section, "transformative project" means a
41 redevelopment project: that has a project financing gap; that has a total
42 project cost of at least \$150,000,000; that, subject to the provisions of
43 subsection h. of this section, includes 200,000 or more square feet of
44 new or substantially renovated industrial, commercial, or residential
45 space for a project located in a government-restricted municipality,
46 that includes 250,000 or more square feet of film studios, professional
47 stages, television studios, recording studios, screening rooms, or other
48 infrastructure for film production, that includes 300,000 or more

1 square feet of new or substantially renovated industrial, commercial,
2 or residential space for a project located in an enhanced area, or that
3 includes 500,000 or more square feet of new or substantially renovated
4 industrial, commercial, or residential space for any other project; and,
5 for a commercial project, that is of special economic importance as
6 measured by the level of new jobs, new capital investment,
7 opportunities to leverage leadership in a high-priority targeted
8 industry, or other state priorities as determined by the authority
9 pursuant to rules and regulations promulgated to implement this
10 section. Notwithstanding the provisions of subsection b. of section 14
11 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications
12 submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-
13 335.1 et al.), if the redevelopment project is located entirely on land
14 designated by the Department of Environmental Protection as a
15 brownfield development area pursuant to section 7 of P.L.2005, c.223
16 (C.58:10B-25.1), and the project cost of the redevelopment project
17 includes at least \$15,000,000 in environmental remediation costs, the
18 redevelopment project shall constitute a project of special economic
19 importance. A transformative project may be completed in phases,
20 which phases may be determined by the authority based on factors
21 such as written architectural plans and specifications completed before
22 or during the physical work, certificates of occupancy, or financial and
23 operational plans. The criteria developed by the authority shall
24 include, but shall not be limited to:

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

28 (2) (a) for a residential project, the construction of 700 or more
29 new residential units; ¹or¹

30 (b) for a residential project containing **【less】** fewer than 700 new
31 residential units, the construction of 200 or more new residential units
32 if the project is located in a government-restricted municipality, 300 or
33 more residential units if the project is located in an enhanced area, or
34 400 or more residential units for all other mixed-use projects; ¹or¹

35 (c) for a residential project containing **【less】** fewer than 700 new
36 residential units, the construction of **【50,000】** 20,000 square feet or
37 more of commercial space, which commercial space may include retail
38 space; and

39 (d) for a residential project, 20 percent of the new residential units
40 shall be constructed for occupancy by low- and moderate-income
41 households with affordability controls as adopted by the authority, in
42 consultation with the agency, in accordance with paragraph (2) of
43 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except
44 that a residential project receiving a federal historic rehabilitation tax
45 credit pursuant to section 47 of the federal Internal Revenue Code of
46 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property
47 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-

1 270 through 34:1B-276), shall be exempt from the affordability
2 controls related to bedroom distribution; and

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

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

11 b. (1) The authority may award incentive awards to
12 transformative projects in accordance with the provisions of sections
13 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335).

14 (2) (a) For transformative projects completed in phases, the
15 developer shall enter into a transformative phase agreement with the
16 authority.

17 (b) As used in this subsection, "transformative phase agreement"
18 shall mean a sub-agreement of the incentive award agreement that
19 governs the timing, capital investment, and other applicable details of
20 the respective phase of a phased project.

21 (3) Notwithstanding the provisions of section 57 of P.L.2020,
22 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
23 (C.34:1B-269 et al.) to the contrary, a transformative project shall be
24 completed, and the developer shall be issued a certificate of occupancy
25 for the transformative project facilities by the applicable enforcing
26 agency, within five years of executing the incentive award agreement,
27 except that the authority may, in its discretion, extend this deadline by
28 up to one additional year. For transformative projects completed in
29 phases, the transformative project shall be completed, and the
30 developer shall be issued certificates of occupancy for all phases of the
31 transformative project facilities by the applicable enforcing agency,
32 within 10 years of executing either the incentive award agreement or
33 the first transformative phase agreement corresponding to the
34 transformative project.

35 (4) Notwithstanding the provisions of sections 55 and 60 of
36 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section
37 of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each phase of a
38 transformative project completed in phases shall have a separate
39 eligibility period. After completing each phase, the developer shall
40 submit a certification that the phase is completed. If the authority
41 approves the certification, the tax credit allowed to the developer shall
42 be increased by the tax credit amount corresponding to that phase.
43 Notwithstanding the different eligibility periods for each phase, all
44 conditions and requirements applicable during an eligibility period
45 pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323
46 through 34:1B-335) shall apply to the entire transformative project
47 until the end of the eligibility period for the last phase.

1 (5) Notwithstanding the provisions of section 60 of P.L.2020,
2 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
3 (C.34:1B-269 et al.) to the contrary, for a transformative project
4 completed in phases, a review of the project financing gap shall be
5 performed at the certification of completion of each phase, and the
6 authority shall re-evaluate the developer's rate of return in the seventh
7 year and at the end of the eligibility period for the last phase, provided
8 that the authority may also re-evaluate the developer's rate of return
9 during the fifth year of any earlier phase.

10 (6) A transformative project receiving an incentive award pursuant
11 to this section, other than a project that includes 250,000 or more
12 square feet of film studios, professional stages, television studios,
13 recording studios, screening rooms or other infrastructure for film
14 production, shall be located in an incentive area, a distressed
15 municipality, a government-restricted municipality, or an enhanced
16 area. A transformative project receiving an incentive award pursuant
17 to this section that includes 250,000 or more square feet of film
18 studios, professional stages, television studios, recording studios,
19 screening rooms or other infrastructure for film production may be
20 located anywhere in the State. The authority shall not consider an
21 application for a transformative project unless the applicant submits
22 with its application a letter evidencing support for the transformative
23 project from the governing body of the municipality in which the
24 transformative project is located.

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

1 implementation of the proposed transformative project for which an
2 award of tax credits is being sought. Projects that are predominantly
3 residential shall be excluded from the calculation of the net benefit test
4 required pursuant to this subsection.

5 d. In determining net benefits for any business or person
6 considering locating in a transformative project and applying to
7 receive from the authority any other economic development incentive
8 subsequent to the award of transformative project tax credits pursuant
9 to section 65 of P.L.2020, c.156 (C.34:1B-333), the authority shall not
10 credit the business or person with any benefit that was previously
11 credited to the transformative project pursuant to section 65 of
12 P.L.2020, c.156 (C.34:1B-333).

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

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

32 g. Notwithstanding the limitation on incentive awards set forth in
33 subsection b. of section 61 and section 98 of P.L.2020, c.156
34 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
35 allow a developer of a transformative project a tax credit in an amount
36 not to exceed the lesser of:

37 (1) (a) 80 percent of the total project cost for a transformative
38 project that is located in a government-restricted municipality;

39 (b) 60 percent of the total project cost for a residential
40 transformative project that receives a four-percent allocation from the
41 federal Low Income Housing Tax Credit Program administered by the
42 agency or a transformative project that is located in a qualified
43 incentive tract, enhanced area, or a municipality with a Municipal
44 Revitalization Index score of at least 50; or

45 (c) 50 percent of the total project cost for any other transformative
46 project;

47 (2) the total value of the project financing gap; or

1 (3) \$400,000,000, except that for a transformative project that is
 2 developed in phases, the \$400,000,000 limitation on incentive awards
 3 set forth in this paragraph shall apply to the total aggregate award for
 4 all phases of the transformative project.

5 h. ¹Notwithstanding the limitations set forth in subsection g. of
 6 this
 7 section, a developer of a transformative project shall be eligible for
 8 each of the following enhancements to the total tax credit award:

9 (1) for a transformative project that includes the redevelopment of
 10 a stranded asset, an enhancement of up to 10 percent of the project cost
 11 of the transformative project;

12 (2) for a residential transformative project that meets the three-
 13 bedroom distribution requirement under the Uniform Housing
 14 Affordability Controls, an enhancement of up to five percent of the
 15 project cost of the residential transformative project; and

16 (3) for a transformative project that meets local first source hiring
 17 requirements for residents in the municipality or county in which the
 18 project is located and in surrounding municipalities, as appropriate, an
 19 enhancement of up to three percent of the project cost of the
 20 transformative project.

21 i.¹ (1) The parking component of a transformative project shall be
 22 included in the calculation of the total square footage of the project,
 23 provided that the parking component shall be constructed in
 24 conformity with local zoning, planning, or similar requirements
 25 ¹ [and] , or¹ up to the amount required by the Residential Site
 26 Improvement Standards ¹, regardless of whether the Residential Site
 27 Improvement Standards apply to the parking component¹ . Any
 28 portion of the parking component that exceeds the local parking
 29 requirements or the Residential Site Improvement Standards shall not
 30 be included in the calculation of the total square footage of the project.

31 (2) Notwithstanding any provision of paragraph (1) of this
 32 subsection to the contrary, the entire parking component of a project
 33 located in a government restricted municipality shall be included in the
 34 calculation of the total square footage of the project.

35 (cf: P.L.2023, c.98, s.9)

36
 37 9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to
 38 read as follows:

39 14. a. (1) Except as otherwise provided in subsection b. of this
 40 section, all program applications **【completed after】** submitted to the
 41 authority on or after the date six months prior to the effective date
 42 of **【P.L.2023, c.98 (C.34:1B-335.1 et al.)】** P.L. , c. (C.)
 43 (pending before the Legislature as this bill) shall be subject to the
 44 "New Jersey Aspire Program Act," sections 54 through 67 of
 45 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as amended as
 46 supplemented by P.L.2023, c.98 (C.34:1B-335.1 et al.), and as
 47 further amended and supplemented by P.L. , c. (C.)

1 (pending before the Legislature as this bill), including the rules and
2 regulations adopted pursuant to subsection b. of section 67 of
3 P.L.2020, c.156 (C.34:1B-335), except that applications submitted
4 to the authority prior to the effective date of P.L. , c. (C.)
5 (pending before the Legislature as this bill) shall be subject to the
6 rules and regulations concerning application fees that were in effect
7 immediately before the effective date of P.L. , c. (C.)
8 (pending before the Legislature as this bill).

9 (2) **【**Except as otherwise provided in subsection b. of this
10 section, all program applications completed on or before the
11 effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be
12 subject to the provisions of the "New Jersey Aspire Program Act,"
13 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
14 34:1B-335), as such provisions remained in effect immediately
15 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
16 including the rules and regulations adopted pursuant to subsection
17 a. of section 67 of P.L.2020, c.156 (C.34:1B-335).**】** (Deleted by
18 amendment, P.L. , c. (pending before the Legislature as this bill)

19 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-
20 269 et al.) to the contrary, if a completed application for a
21 residential project is submitted to the authority on or before the
22 121st calendar day next following effective date of P.L.2023, c.98
23 (C.34:1B-335.1 et al.), the applicant for the residential project has
24 received all applicable approvals pursuant to the "Municipal Land
25 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the
26 121st calendar day next following the effective date of P.L.2023,
27 c.98 (C.34:1B-335.1 et al.), and the applicant submits written notice
28 to the authority, before the authority's approval or denial of the
29 application, electing for the application to be governed under the
30 provisions of this subsection, then the residential units constructed
31 for occupancy by low- and moderate-income households within the
32 residential project shall not be subject to the affordability controls
33 adopted by the authority, in consultation with the agency, pursuant
34 to paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
35 (C.34:1B-324) and subsection b. of section 67 of P.L.2020, c.156
36 (C.34:1B-335). In this event, the application for the residential
37 project shall be reviewed, approved, and administered in accordance
38 with the provisions of the "New Jersey Aspire Program Act,"
39 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
40 34:1B-335), as such provisions remained in effect immediately
41 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
42 including the rules and regulations adopted pursuant to subsection
43 a. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
44 application shall be subject to:

45 (1) the determination of a reasonable and appropriate return on
46 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-
47 323), as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.); and

1 (2) the limitation on tax credit awards set forth in subsection b.
2 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
3 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
4 amended by P.L.2023, c.98 (C.34:1B-335.1 et al.).
5 (cf: P.L.2023, c.98, s.14)
6

7 10. (New section) The authority shall promulgate a schedule of
8 application and other fees imposed under the program, which fees
9 shall be limited to the coverage of actual direct costs of
10 administering the program, the coverage of reasonable indirect costs
11 of administering the program, and the maintenance of reasonable
12 reserves for administering the program. Any application fee or
13 other fee charged by the authority shall be proportional to the tax
14 credit amount awarded for a redevelopment project under the
15 program.
16

17 11. (New section) a. The authority shall establish, as part of the
18 program, a “Redevelopment Project Bridge Financing Program” to
19 facilitate the ability of a developer to secure financing for a
20 redevelopment project until such time as tax credits are issued
21 pursuant to the “New Jersey Aspire Program Act,” sections 54 through
22 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as
23 amended as supplemented. Through the program, the authority shall
24 provide full or partial loans or loan guarantees, at the authority’s
25 discretion, to the developers of redevelopment projects for the purpose
26 of ensuring the completion of the redevelopment projects. As
27 determined by the authority, the Redevelopment Project Bridge
28 Financing Program may consist of:

29 (1) the issuance of redevelopment project bridge financing loans,
30 subject to the provisions of subsection b. of this section; and

31 (2) the provision of redevelopment project loan guarantees, subject
32 to the provisions of subsection c. of this section.

33 b. (1) The authority may issue a redevelopment project bridge
34 financing loan to the developer of an approved redevelopment project,
35 upon application by the developer, provided that the authority
36 determines that:

37 (a) a project financing gap continues to exist after the award of tax
38 credits to the developer of the redevelopment project; and

39 (b) the redevelopment project bridge financing loan will enable the
40 completion of the redevelopment project.

41 (2) A developer who seeks a redevelopment project bridge
42 financing loan shall submit an application to the authority, which
43 application shall include:

44 (a) a proposed loan principle and interest amount;

45 (b) a proposed repayment schedule;

46 (c) an accounting of the remaining project financing gap; and

47 (d) any other information as the authority shall require.

1 (3) The authority may issue the redevelopment project bridge
2 financing loan in such amount as it deems appropriate, subject to such
3 terms, including, but not limited to, interest rates, collateral, and
4 repayment or release schedules, as the authority shall deem reasonable
5 and appropriate ¹, except that each worker employed to perform
6 construction work on the redevelopment project shall be paid not less
7 than the prevailing wage rate for the worker's craft or trade, as
8 determined by the Commissioner of Labor and Workforce
9 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
10 P.L.2005, c.379 (C.34:11-56.58 et seq.)¹.

11 c. (1) The authority may provide a loan guarantee to the
12 developer of an approved redevelopment project, upon application by
13 the developer, provided that the authority determines that:

14 (a) a project financing gap continues to exist after the initial award
15 of tax credits to the developer of the redevelopment project; and

16 (b) the loan guarantee will enable the developer to access the
17 financing needed to complete the redevelopment project.

18 (2) A developer who seeks a loan guarantee shall submit an
19 application to the authority, which application shall include:

20 (a) a proposed loan guarantee amount and terms;

21 (b) an accounting of the remaining project financing gap; and

22 (c) any other information as the authority shall require.

23 (3) The authority may issue the loan guarantees in such amounts as
24 it deems appropriate, subject to such terms as the authority deems
25 reasonable and appropriate ¹, except that each worker employed to
26 perform construction work on the redevelopment project shall be paid
27 not less than the prevailing wage rate for the worker's craft or trade, as
28 determined by the Commissioner of Labor and Workforce
29 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
30 P.L.2005, c.379 (C.34:11-56.58 et seq.)¹.

31 d. (1) The authority shall establish a Redevelopment Project
32 Bridge Financing Revolving Fund from which the authority shall
33 provide all loans issued pursuant to subsection b. of this section and
34 provide all loan guarantees issued pursuant to subsection c. of this
35 section. All monies received from payments of the principle and
36 interest for loans issued pursuant to this section shall be deposited into
37 the Redevelopment Project Bridge Financing Revolving Fund, which
38 fund shall remain until the authority determines that there no longer
39 remains a need for bridge financing or until December 31, 2028,
40 whichever occurs first. After the fund is no longer needed, or upon its
41 expiration, all monies in the fund shall be deposited into the General
42 Fund.

43 (2) Within 90 days after the effective date of P.L. , c. (C.)
44 (pending before the Legislature as this bill), the authority shall submit
45 a recommendation to the Governor and to the Legislature, pursuant to
46 section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of
47 appropriations needed to fund the Redevelopment Project Bridge
48 Financing Program.

1 12. (New section) a. To facilitate the efficient monetization of
2 tax credits awarded under the program, the Department of the
3 Treasury shall, at such times as the department deems necessary,
4 redeem the tax credits awarded to a developer for a redevelopment
5 project at a discount from face value. The tax credit redemptions
6 shall be made at such discounts as the State Treasurer deems
7 appropriate, except that the discount shall not exceed 10 percent of
8 the face value of the tax credits.

9 b. The tax credit redemptions shall be paid in the same manner
10 as refunds of tax payable under section 5 of P.L.1945, c.162
11 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
12 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
13 N.J.S.17B:23-5, notwithstanding that such tax is not applicable to
14 the person or entity seeking the redemption. The State Treasurer
15 shall allow the proceeds of the tax credit redemption to be issued
16 over one or more tax periods, but not to exceed the applicable
17 eligibility period.

18
19 13. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to
20 read as follows:

21 89. a. The Director of the Division of Taxation in the
22 Department of the Treasury may purchase unused tax credits
23 awarded under a program listed in subsection b. of this section,
24 including tax credit transfer certificates issued by the director in
25 lieu of a tax credit allowed under such programs. The director shall
26 not pay consideration in excess of 75 percent of the credit amount
27 to be purchased, except for a credit awarded under:

28 (1) the "Emerge Program Act," sections 68 through 81 of
29 P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the
30 provisions of paragraph (4) of subsection d. of section 77 of
31 P.L.2020, c.156 (C.34:1B-345); or

32 (2) the "New Jersey Aspire Program Act," sections 54 through
33 67 (C.34:1B-222 through C.34:1B-335), as amended and
34 supplemented, which shall be subject to the provisions of section 12
35 of P.L. , c. (C.) (pending before the Legislature as this
36 bill).

37 b. The Director of the Division of Taxation in the Department
38 of the Treasury may purchase tax credits awarded under the
39 following:

40 (1) the "Historic Property Reinvestment Act," sections 1 through
41 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

42 (2) the "Brownfield Redevelopment Incentive Program Act,"
43 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
44 C.34:1B-287);

45 (3) the "New Jersey Innovation Evergreen Act," sections 20
46 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);

47 (4) the "Food Desert Relief Act," sections 35 through 42 of
48 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);

1 (5) the "New Jersey Community-Anchored Development Act,"
2 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
3 C.34:1B-321);

4 (6) the "New Jersey Aspire Program Act," sections 54 through
5 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);

6 (7) the " Emerge Program Act," sections 68 through 81 of
7 P.L.2020, c.156 (C.34:1B-336 et al.);

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

10 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

11 (10)the State Economic Redevelopment and Growth Grant
12 program established pursuant to section 5 of P.L.2009, c.90
13 (C.52:27D-489e);

14 (11)section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and

15 (12)section 2 of P.L.2018, c.56 (C.54A:4-12b).

16 (cf: P.L.2020, c.156, s.89)

17

18 14. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to
19 read as follows:

20 4. For the purposes of this act, unless the context requires a
21 different meaning:

22 (a) "Commissioner" or "director" shall mean the Director of the
23 Division of Taxation of the State Department of the Treasury.

24 (b) "Allocation factor" shall mean the proportionate part of a
25 taxpayer's net worth or entire net income used to determine a
26 measure of its tax under this act.

27 (c) "Corporation" shall mean any corporation, joint-stock
28 company or association and any business conducted by a trustee or
29 trustees wherein interest or ownership is evidenced by a certificate
30 of interest or ownership or similar written instrument, any other
31 entity classified as a corporation for federal income tax purposes,
32 and any state or federally chartered building and loan association or
33 savings and loan association.

34 (d) "Net worth" shall mean the aggregate of the values disclosed
35 by the books of the corporation for (1) issued and outstanding
36 capital stock, (2) paid-in or capital surplus, (3) earned surplus and
37 undivided profits, and (4) surplus reserves which can reasonably be
38 expected to accrue to holders or owners of equitable shares, not
39 including reasonable valuation reserves, such as reserves for
40 depreciation or obsolescence or depletion. Notwithstanding the
41 foregoing, net worth shall not include any deduction for the amount
42 of the excess depreciation described in paragraph (2) (F) of
43 subsection (k) of this section. The foregoing aggregate of values
44 shall be reduced by 50% of the amount disclosed by the books of
45 the corporation for investment in the capital stock of one or more
46 subsidiaries, which investment is defined as ownership (1) of at
47 least 80% of the total combined voting power of all classes of stock
48 of the subsidiary entitled to vote and (2) of at least 80% of the total

1 number of shares of all other classes of stock except nonvoting
2 stock which is limited and preferred as to dividends. In the case of
3 investment in an entity organized under the laws of a foreign
4 country, the foregoing requisite degree of ownership shall effect a
5 like reduction of such investment from the net worth of the
6 taxpayer, if the foreign entity is considered a corporation for any
7 purpose under the United States federal income tax laws, such as
8 (but not by way of sole examples) for the purpose of supplying
9 deemed paid foreign tax credits or for the purpose of status as a
10 controlled foreign corporation. In calculating the net worth of a
11 taxpayer entitled to reduction for investment in subsidiaries, the
12 amount of liabilities of the taxpayer shall be reduced by such
13 proportion of the liabilities as corresponds to the ratio which the
14 excluded portion of the subsidiary values bears to the total assets of
15 the taxpayer.

16 In the case of banking corporations which have international
17 banking facilities as defined in subsection (n), the foregoing
18 aggregate of values shall also be reduced by retained earnings of the
19 international banking facility. Retained earnings means the earnings
20 accumulated over the life of such facility and shall not include the
21 distributive share of dividends paid and federal income taxes paid
22 or payable during the tax year.

23 If in the opinion of the director, the corporation's books do not
24 disclose fair valuations the director may make a reasonable
25 determination of the net worth which, in his opinion, would reflect
26 the fair value of the assets, exclusive of subsidiary investments as
27 defined aforesaid, carried on the books of the corporation, in
28 accordance with sound accounting principles, and such
29 determination shall be used as net worth for the purpose of this act.

30 (e) (Deleted by amendment, P.L.1998, c.114.)

31 (f) "Investment company" shall mean any corporation whose
32 business during the period covered by its report consisted, to the
33 extent of at least 90 percent thereof of holding, investing and
34 reinvesting in stocks, bonds, notes, mortgages, debentures, patents,
35 patent rights and other securities for its own account, but this shall
36 not include any corporation which: (1) is a merchant or a dealer of
37 stocks, bonds and other securities, regularly engaged in buying the
38 same and selling the same to customers; or (2) had less than 90
39 percent of its average gross assets in New Jersey, at cost, invested
40 in stocks, bonds, debentures, mortgages, notes, patents, patent rights
41 or other securities or consisting of cash on deposit during the period
42 covered by its report; or (3) is a banking corporation, a savings
43 institution, or a financial business corporation as defined in the
44 Corporation Business Tax Act.

45 (g) "Regulated investment company" shall mean any corporation
46 which for a period covered by its report, is registered and regulated
47 under the Investment Company Act of 1940 (54 Stat. 789), as
48 amended.

1 (h) "Taxpayer" shall mean any corporation, any combined group
2 filing a mandatory or elective New Jersey combined return, and any
3 partnership required, or consenting, to report or to pay taxes,
4 interest or penalties under this act. "Taxpayer" shall not include a
5 partnership that is listed on a United States national stock exchange.

6 (i) "Fiscal year" shall mean an accounting period ending on any
7 day other than the last day of December on the basis of which the
8 taxpayer is required to report for federal income tax purposes.

9 (j) Except as herein provided, "privilege period" shall mean the
10 calendar or fiscal accounting period for which a tax is payable
11 under this act.

12 (k) "Entire net income" shall mean total net income from all
13 sources, whether within or without the United States, and shall
14 include the gain derived from the employment of capital or labor, or
15 from both combined, as well as profit gained through a sale or
16 conversion of capital assets.

17 For the purpose of this act, the amount of a taxpayer's entire net
18 income shall be deemed prima facie to be equal in amount to the
19 taxable income, before net operating loss deduction and special
20 deductions, which the taxpayer is required to report, or, if the
21 taxpayer is classified as a partnership for federal tax purposes,
22 would otherwise be required to report, to the United States Treasury
23 Department for the purpose of computing its federal income tax,
24 provided however, that in the determination of such entire net
25 income,

26 (1) Entire net income shall exclude for the periods set forth in
27 paragraph (2)(F)(i) of this subsection, any amount, except with
28 respect to qualified mass commuting vehicles as described in
29 section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect
30 immediately prior to January 1, 1984, which is included in a
31 taxpayer's federal taxable income solely as a result of an election
32 made pursuant to the provisions of paragraph (8) of that section.

33 (2) Entire net income shall be determined without the exclusion,
34 deduction or credit of:

35 (A) The amount of any exemption or credit allowed in any law
36 of the United States imposing any tax on or measured by the income
37 of corporations.

38 (B) Any part of any income from dividends or interest on any
39 kind of stock, securities or indebtedness, except as provided in
40 paragraph (5) of subsection (k) of this section.

41 (C) Taxes paid or accrued to the United States, a possession or
42 territory of the United States, a state, a political subdivision thereof,
43 or the District of Columbia, or to any foreign country, state,
44 province, territory or subdivision thereof, on or measured by profits
45 or income, or business presence or business activity, or the tax
46 imposed by this act, or any tax paid or accrued with respect to
47 subsidiary dividends excluded from entire net income as provided
48 in paragraph (5) of subsection (k) of this section.

1 (D) (Deleted by amendment, P.L.1985, c.143.)

2 (E) (Deleted by amendment, P.L.1995, c.418.)

3 (F) (i) The amount by which depreciation reported to the United
4 States Treasury Department for property placed in service on and
5 after January 1, 1981, but prior to taxpayer fiscal or calendar
6 accounting years beginning on and after the effective date of
7 P.L.1993, c.172, for purposes of computing federal taxable income
8 in accordance with section 168 of the Internal Revenue Code in
9 effect after December 31, 1980, exceeds the amount of depreciation
10 determined in accordance with the Internal Revenue Code
11 provisions in effect prior to January 1, 1981, but only with respect
12 to a taxpayer's accounting period ending after December 31, 1981;
13 provided, however, that where a taxpayer's accounting period
14 begins in 1981 and ends in 1982, no modification shall be required
15 with respect to this paragraph (F) for the report filed for such period
16 with respect to property placed in service during that part of the
17 accounting period which occurs in 1981. The provisions of this
18 subparagraph shall not apply to assets placed in service prior to
19 January 1, 1998 of a gas, gas and electric, and electric public utility
20 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et
21 seq.) prior to 1998.

22 (ii) For the periods set forth in subparagraph (F)(i) of paragraph
23 (2) of this subsection, any amount, except with respect to qualified
24 mass commuting vehicles as described in section 168(f)(8)(D)(v) of
25 the Internal Revenue Code as in effect immediately prior to January
26 1, 1984, which the taxpayer claimed as a deduction in computing
27 federal income tax pursuant to a qualified lease agreement under
28 paragraph (8) of that section.

29 The director shall promulgate rules and regulations necessary to
30 carry out the provisions of this section, which rules shall provide,
31 among others, the manner in which the remaining life of property
32 shall be reported.

33 (G) (i) The amount of any civil, civil administrative, or criminal
34 penalty or fine, including a penalty or fine under an administrative
35 consent order, assessed and collected for a violation of a State or
36 federal environmental law, an administrative consent order, or an
37 environmental ordinance or resolution of a local governmental
38 entity, and any interest earned on the penalty or fine, and any
39 economic benefits having accrued to the violator as a result of a
40 violation, which benefits are assessed and recovered in a civil, civil
41 administrative, or criminal action, or pursuant to an administrative
42 consent order. The provisions of this paragraph shall not apply to a
43 penalty or fine assessed or collected for a violation of a State or
44 federal environmental law, or local environmental ordinance or
45 resolution, if the penalty or fine was for a violation that resulted
46 from fire, riot, sabotage, flood, storm event, natural cause, or other
47 act of God beyond the reasonable control of the violator, or caused

1 by an act or omission of a person who was outside the reasonable
2 control of the violator.

3 (ii) The amount of treble damages paid to the Department of
4 Environmental Protection pursuant to subsection a. of section 7 of
5 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the
6 department in removing, or arranging for the removal of, an
7 unauthorized discharge upon failure of the discharger to comply
8 with a directive from the department to remove, or arrange for the
9 removal of, the discharge.

10 (H) The amount of any sales and use tax paid by a utility vendor
11 pursuant to section 71 of P.L.1997, c.162.

12 (I) With respect to privilege periods ending before July 31,
13 2023, interest paid, accrued or incurred for the privilege period to a
14 related member, as defined in section 5 of P.L.2002, c.40
15 (C.54:10A-4.4), except that a deduction shall be permitted to the
16 extent that the taxpayer establishes by clear and convincing
17 evidence, as determined by the director, that: (i) a principal purpose
18 of the transaction giving rise to the payment of the interest was not
19 to avoid taxes otherwise due under Title 54 of the Revised Statutes
20 or Title 54A of the New Jersey Statutes, (ii) the interest is paid
21 pursuant to arm's length contracts at an arm's length rate of interest,
22 and (iii)(aa) the related member was subject to a tax on its net
23 income or receipts in this State or another state or possession of the
24 United States or in a foreign nation, (bb) a measure of the tax
25 includes the interest received from the related member, and (cc) the
26 rate of tax applied to the interest received by the related member is
27 equal to or greater than a rate three percentage points less than the
28 rate of tax applied to taxable interest by this State pursuant to
29 section 5 of P.L.1945, c.162 (C.54:10A-5).

30 With respect to privilege periods ending before July 31, 2023, a
31 deduction shall also be permitted if the taxpayer establishes by clear
32 and convincing evidence, as determined by the director, that the
33 disallowance of a deduction is unreasonable, or the taxpayer and the
34 director agree in writing to the application or use of an alternative
35 method of apportionment under section 8 of P.L.1945, c.162
36 (C.54:10A-8); nothing in this subsection shall be construed to limit
37 or negate the director's authority to otherwise enter into agreements
38 and compromises otherwise allowed by law.

39 With respect to privilege periods ending before July 31, 2023, a
40 deduction shall also be permitted to the extent that the taxpayer
41 establishes by a preponderance of the evidence, as determined by
42 the director, that the interest is directly or indirectly paid, accrued
43 or incurred to (i) a related member in a foreign nation which has in
44 force a comprehensive income tax treaty with the United States and
45 the related member (aa) was subject to tax in the foreign nation on a
46 tax base that included the payment paid, accrued, or incurred; and
47 (bb) under which the related member's income received from the
48 transaction was taxed at an effective tax rate equal to or greater than

1 a rate of three percentage points less than the rate of tax applied to
2 taxable interest by the State of New Jersey pursuant to section 5 of
3 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer
4 shall disclose on its return for the privilege period the name of the
5 related member, the amount of the interest, the relevant foreign
6 nation, and such other information as the director may prescribe or
7 (ii) to an independent lender and the taxpayer guarantees the debt
8 on which the interest is required. The adjustments required by this
9 subparagraph shall not apply to transactions between related
10 members included in a combined group reported on a New Jersey
11 combined return.

12 (J) (i) Amounts deducted for federal tax purposes pursuant to
13 section 199 of the federal Internal Revenue Code of 1986, 26
14 U.S.C. s.199, except that this exclusion shall not apply to amounts
15 deducted pursuant to that section that are exclusively based upon
16 domestic production gross receipts of the taxpayer which are
17 derived only from any lease, rental, license, sale, exchange, or other
18 disposition of qualifying production property which the taxpayer
19 demonstrates to the satisfaction of the director was manufactured or
20 produced by the taxpayer in whole or in significant part within the
21 United States but not qualified production property that was grown
22 or extracted by the taxpayer. "Manufactured or produced" as used in
23 this paragraph shall be limited to performance of an operation or
24 series of operations the object of which is to place items of tangible
25 personal property in a form, composition, or character different
26 from that in which they were acquired. The change in form,
27 composition, or character shall be a substantial change, and result in
28 a transformation of property into a different or substantially more
29 usable product.

30 (ii) For privilege periods beginning after December 31, 2017,
31 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et
32 seq.) or any other law to the contrary, for the purposes of
33 determining the amount of income pursuant to P.L.1945, c.162
34 (C.54:10A-1 et seq.) that is net of expenses, no amounts shall be
35 taken as a deduction pursuant to section 199A of the Internal
36 Revenue Code (26 U.S.C. s.199A).

37 (K) (i) For privilege periods beginning after December 31, 2017
38 and ending before July 31, 2022, the interest deduction limitation in
39 subsection (j) of section 163 of the Internal Revenue Code (26
40 U.S.C. s.163), shall apply on a pro-rata basis to interest paid to both
41 related and unrelated parties, regardless of whether the related
42 parties are subject to the add-back provision of either subparagraph
43 (I) of paragraph (2) of this subsection or in section 5 of P.L.2002,
44 c.40 (C.54:10A-4.4).

45 (ii) For privilege periods beginning after December 31, 2017
46 and ending on and after July 31, 2022, the interest deduction
47 limitation in subsection (j) of section 163 of the Internal Revenue
48 Code (26 U.S.C. s.163), shall apply to a combined group as though

1 the combined group filed a federal consolidated return; provided,
2 however, for the purposes of applying the limitation in subsection
3 (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163),
4 with regard to affiliates that were members of the federal
5 consolidated return but were not members of the combined group
6 included on the New Jersey combined return, the combined group
7 and the affiliates will also be treated as having filed one federal
8 consolidated return.

9 (3) The director may, whenever necessary to properly reflect the
10 entire net income of any taxpayer, determine the year or period in
11 which any item of income or deduction shall be included, without
12 being limited to the method of accounting employed by the
13 taxpayer.

14 (4) There shall be allowed as a deduction from entire net income
15 of a banking corporation, to the extent not deductible in
16 determining federal taxable income, the eligible net income of an
17 international banking facility determined as follows:

18 (A) The eligible net income of an international banking facility
19 shall be the amount remaining after subtracting from the eligible
20 gross income the applicable expenses;

21 (B) Eligible gross income shall be the gross income derived by
22 an international banking facility, which shall include, but not be
23 limited to, gross income derived from:

24 (i) Making, arranging for, placing or carrying loans to foreign
25 persons, provided, however, that in the case of a foreign person
26 which is an individual, or which is a foreign branch of a domestic
27 corporation (other than a bank), or which is a foreign corporation or
28 foreign partnership which is controlled by one or more domestic
29 corporations (other than banks), domestic partnerships or resident
30 individuals, all the proceeds of the loan are for use outside of the
31 United States;

32 (ii) Making or placing deposits with foreign persons which are
33 banks or foreign branches of banks (including foreign subsidiaries)
34 or foreign branches of the taxpayers or with other international
35 banking facilities;

36 (iii) Entering into foreign exchange trading or hedging
37 transactions related to any of the transactions described in this
38 paragraph; or

39 (iv) Such other activities as an international banking facility
40 may, from time to time, be authorized to engage in;

41 (C) Applicable expenses shall be any expense or other
42 deductions attributable, directly or indirectly, to the eligible gross
43 income described in subparagraph (B) of this paragraph.

44 (5) (A) (i) Entire net income shall exclude 100% of dividends
45 which were included in computing such taxable income for federal
46 income tax purposes, paid to the taxpayer by one or more
47 subsidiaries owned by the taxpayer to the extent of the 80% or more

1 ownership of investment described in subsection (d) of this section
2 for privilege periods beginning on or before December 31, 2016.

3 (ii) For privilege periods beginning after December 31, 2016
4 and before January 1, 2019, entire net income shall exclude 95% of
5 dividends which were included in computing such taxable income
6 for federal income tax purposes, paid or deemed paid, to the
7 taxpayer by one or more subsidiaries owned by the taxpayer to the
8 extent of the 80% or more ownership of investment described in
9 subsection (d) of this section. For the purposes of calculating the
10 tax liability owed for the paid or deemed paid dividends included in
11 entire net income by this subsubparagraph (ii), the taxpayer shall
12 use either their three-year average allocation factor for the
13 taxpayer's 2014 through 2016 tax years reported on the taxpayer's
14 tax returns or 3.5 percent, whichever is lower.

15 (iii) For privilege periods beginning on and after January 1, 2019
16 and ending before July 31, 2023, entire net income shall exclude
17 95% of dividends which were included in computing such taxable
18 income for federal income tax purposes, paid or deemed paid to the
19 taxpayer by one or more subsidiaries owned by the taxpayer to the
20 extent of the 80% or more ownership of investment described in
21 subsection (d) of this section.

22 (iv) For privilege periods ending on and after July 31, 2023,
23 entire net income shall exclude 100 percent of dividends and
24 deemed dividends that were included in computing such taxable
25 income for federal income tax purposes, paid or deemed paid to the
26 taxpayer by one or more subsidiaries owned by the taxpayer to the
27 extent of the 80 percent or more ownership of investment described
28 in subsection (d) of this section.

29 (B) Entire net income shall exclude 50% of dividends which
30 were included in computing such taxable income for federal income
31 tax purposes, paid or deemed paid to the taxpayer by one or more
32 subsidiaries owned by the taxpayer to the extent of 50% or more
33 ownership of investment, such ownership of investment calculated
34 in the same manner as the 80% or more of ownership of investment
35 is calculated as described in subsection (d) of this section.

36 (C) To the extent a subsidiary received dividends from other
37 subsidiaries and included those dividends in its entire net income
38 for the purposes of determining its tax liability pursuant to section 5
39 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends,
40 the taxpayer receiving those same dividends from the subsidiary
41 shall exclude those dividends from its entire net income based on
42 the subsidiary's allocation factor used by the subsidiary in
43 determining its tax liability pursuant to section 5 of P.L.1945, c.162
44 (C.54:10A-5). This subparagraph (C) shall not apply to privilege
45 periods ending on and after July 31, 2019.

46 (D) For privilege periods ending on and after July 31, 2019 but
47 before July 31, 2020, to the extent a subsidiary received dividends
48 from other subsidiaries and included those dividends in its entire net

1 income for the purposes of determining its tax liability pursuant to
2 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
3 dividends, the taxpayer receiving those same dividends from the
4 subsidiary shall exclude those dividends from its entire net income.

5 (E) For privilege periods ending on and after July 31, 2020, for
6 purposes of this paragraph (5), the members of a combined group
7 filing a New Jersey combined return shall be treated as one taxpayer
8 with regard to dividends and deemed dividends that were received
9 as part of the unitary business of the combined group.

10 (F) For privilege periods ending on and after July 31, 2023:

11 (i) The exclusion provided by this paragraph (5) shall be
12 deducted from entire net income after the State modifications that
13 increase federal entire net income but before the other State
14 modifications that reduce entire net income and before the
15 allocation of entire net income to this State.

16 (ii) In computing the total amount of the dividends and deemed
17 dividends excluded by this paragraph (5) for privilege periods
18 ending on and after July 31, 2023, the amount of dividends and
19 deemed dividends excluded shall be reduced by the amount of the
20 expenses and deductions that are attributable to those dividends and
21 deemed dividends. For purposes of this paragraph (5), expenses
22 and deductions related to dividends shall equal five percent of all
23 dividends and deemed dividends received by a taxpayer during an
24 income year.

25 (G) For privilege periods ending on and after July 31, 2023, for
26 the purposes of this paragraph (5) and for subsection d. of section
27 18 of P.L.2018, c.48 (C.54:10A-4.6), the income amounts required
28 to be included in federal taxable income pursuant to 26 U.S.C.
29 s.951A, shall be considered a dividend.

30 (6) (A) Net operating loss deduction. For privilege periods
31 ending before July 31, 2019, there shall be allowed as a deduction
32 for the privilege period the net operating loss carryover to that
33 period.

34 (B) Net operating loss carryover. A net operating loss for any
35 privilege period ending after June 30, 1984 shall be a net operating
36 loss carryover to each of the seven privilege periods following the
37 period of the loss and a net operating loss for any privilege period
38 ending after June 30, 2009 shall be a net operating loss carryover to
39 each of the twenty privilege periods following the period of the
40 loss. The entire amount of the net operating loss for any privilege
41 period (the "loss period") shall be carried to the earliest of the
42 privilege periods to which the loss may be carried. The portion of
43 the loss which shall be carried to each of the other privilege periods
44 shall be the excess, if any, of the amount of the loss over the sum of
45 the entire net income, computed without the exclusions permitted in
46 paragraphs (4) and (5) of this subsection or the net operating loss
47 deduction provided by subparagraph (A) of this paragraph, for each
48 of the prior privilege periods to which the loss may be carried.

1 (C) Net operating loss. For purposes of this paragraph the term
2 "net operating loss" means the excess of the deductions over the
3 gross income used in computing entire net income without the net
4 operating loss deduction provided for in subparagraph (A) of this
5 paragraph and the exclusions in paragraphs (4) and (5) of this
6 subsection.

7 (D) Change in ownership. Where there is a change in 50% or
8 more of the ownership of a corporation because of redemption or
9 sale of stock and the corporation changes the trade or business
10 giving rise to the loss, no net operating loss sustained before the
11 changes may be carried over to be deducted from income earned
12 after such changes. In addition where the facts support the premise
13 that the corporation was acquired under any circumstances for the
14 primary purpose of the use of its net operating loss carryover, the
15 director may disallow the carryover.

16 (E) Notwithstanding the provisions of this paragraph (6) of
17 subsection (k) of this section to the contrary, for privilege periods
18 beginning during calendar year 2002 and calendar year 2003, no
19 deduction for any net operating loss carryover shall be allowed and
20 for privilege periods beginning during calendar year 2004 and
21 calendar year 2005, there shall be allowed as a deduction for the
22 privilege period so much of the net operating loss carryover as
23 reduces entire net income otherwise calculated by 50%. If and only
24 to the extent that any net operating loss carryover deduction is
25 disallowed by reason of this subparagraph (E), the date on which
26 the amount of the disallowed net operating loss carryover deduction
27 would otherwise expire shall be extended by a period equal to the
28 period for which application of the net operating loss was
29 disallowed by this subparagraph.

30 Provided, that this subparagraph (E) shall not restrict the
31 surrender or acquisition of corporation business tax benefit
32 certificates pursuant to section 1 of P.L.1997, c.334 (C.34:1B-
33 7.42a) and shall not restrict the application of corporation business
34 tax benefit certificates pursuant to section 2 of P.L.1997, c.334
35 (C.54:10A-4.2).

36 (F) Reduction for discharge of indebtedness. A net operating
37 loss for any privilege period ending after June 30, 2014, and any net
38 operating loss carryover to such privilege period, shall be reduced
39 by the amount excluded from federal taxable income under
40 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
41 section 108 of the federal Internal Revenue Code (26 U.S.C. s.108),
42 for the privilege period of the discharge of indebtedness.

43 (7) The entire net income of gas, electric and gas and electric
44 public utilities that were subject to, or would have been subject to
45 tax if doing business in this State, the provisions of P.L.1940, c.5
46 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by
47 substituting the New Jersey depreciation allowance for federal tax
48 depreciation with respect to assets placed in service prior to January

1 1, 1998. For gas, electric, and gas and electric public utilities that
2 were subject to, or would have been subject to tax if doing business
3 in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.)
4 prior to 1998, the New Jersey depreciation allowance shall be
5 computed as follows: All depreciable assets placed in service prior
6 to January 1, 1998 shall be considered a single asset account. The
7 New Jersey tax basis of this depreciable asset account shall be an
8 amount equal to the carryover adjusted basis for federal income tax
9 purposes on December 31, 1997 of all depreciable assets in service
10 on December 31, 1997, increased by the excess, of the "net carrying
11 value," defined to be adjusted book basis of all assets and liabilities,
12 excluding deferred income taxes, recorded on the public utility's
13 books of account on December 31, 1997, over the carryover
14 adjusted basis for federal income tax purposes on December 31,
15 1997 of all assets and liabilities owned by the gas, electric, or gas
16 and electric public utility as of December 31, 1997. "Books of
17 account" for gas, gas and electric, and electric public utilities means
18 the uniform system of accounts as promulgated by the Federal
19 Energy Regulatory Commission and adopted by the Board of Public
20 Utilities. The following adjustments to entire net income shall be
21 made pursuant to this section:

22 (A) Depreciation for property placed in service prior to January
23 1, 1998 shall be adjusted as follows:

24 (i) Depreciation for federal income tax purposes shall be
25 disallowed in full.

26 (ii) A deduction shall be allowed for the New Jersey
27 depreciation allowance. The New Jersey depreciation allowance
28 shall be computed for the single asset account described above
29 based on the New Jersey tax basis as adjusted above as if all assets
30 in the single asset account were first placed in service on January 1,
31 1998. Depreciation shall be computed using the straight line method
32 over a thirty-year life. A full year's depreciation shall be allowed in
33 the initial tax year. No half-year convention shall apply. The
34 depreciable basis of the single account shall be reduced by the
35 adjusted federal tax basis of assets sold, retired, or otherwise
36 disposed of during any year on which gain or loss is recognized for
37 federal income tax purposes as described in subparagraph (B) of
38 this paragraph.

39 (B) Gains and losses on sales, retirements and other dispositions
40 of assets placed in service prior to January 1, 1998 shall be
41 recognized and reported on the same basis as for federal income tax
42 purposes.

43 (C) The Director of the Division of Taxation shall promulgate
44 regulations describing the methodology for allocating the single
45 asset account in the event that a portion of the utility's operations
46 are separated, spun-off, transferred to a separate company or
47 otherwise desegregated.

1 (8) In the case of taxpayers that are gas, electric, gas and
2 electric, or telecommunications public utilities as defined pursuant
3 to subsection (q) of this section, the director shall have authority to
4 promulgate rules and issue guidance correcting distortions and
5 adjusting timing differences resulting from the adoption of
6 P.L.1997, c.162 (C.54:10A-5.25 et al.).

7 (9) Notwithstanding paragraph (1) of this subsection, entire net
8 income shall not include the income derived by a corporation
9 organized in a foreign country from the international operation of a
10 ship or ships, or from the international operation of aircraft, if such
11 income is exempt from federal taxation pursuant to section 883 of
12 the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

13 (10)Entire net income shall exclude all income of an alien
14 corporation the activities of which are limited in this State to
15 investing or trading in stocks and securities for its own account,
16 investing or trading in commodities for its own account, or any
17 combination of those activities, within the meaning of section 864
18 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in
19 effect on December 31, 1998. Notwithstanding the previous
20 sentence, if an alien corporation undertakes one or more infrequent,
21 extraordinary or non-recurring activities, including but not limited
22 to the sale of tangible property, only the income from such
23 infrequent, extraordinary or non-recurring activity shall be subject
24 to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et
25 seq.), and that amount of income subject to tax shall be determined
26 without regard to the allocation to that specific transaction of any
27 general business expense of the taxpayer and shall be specifically
28 assigned to this State for taxation by this State without regard to
29 section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this
30 paragraph, "alien corporation" means a corporation organized under
31 the laws of a jurisdiction other than the United States or its political
32 subdivisions.

33 (11)No deduction shall be allowed for research and experimental
34 expenditures, to the extent that those research and experimental
35 expenditures are qualified research expenses or basic research
36 payments for which an amount of credit is claimed pursuant to
37 section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research
38 and experimental expenditures are also used to compute a federal
39 credit claimed pursuant to section 41 of the federal Internal
40 Revenue Code of 1986, 26 U.S.C. s.41; provided, however, for
41 privilege periods beginning on and after January 1, 2022, a
42 deduction for research and experimental expenditures shall be
43 allowed during the same privilege period for which a credit is
44 claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24),
45 notwithstanding the timing schedule required by the federal Internal
46 Revenue Code of 1986, 26 U.S.C. s.174, for the deduction of
47 specified research and experimental expenditures.

1 (12)(A) Notwithstanding the provisions of subsection (k) of
2 section 168 of the federal Internal Revenue Code of 1986, 26
3 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal
4 Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal
5 law, for property acquired after September 10, 2001, the
6 depreciation deduction otherwise allowed pursuant to section 167 of
7 the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall
8 be determined pursuant to the provisions of the federal Internal
9 Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on
10 December 31, 2001.

11 (B) The director shall prescribe the rules and regulations
12 necessary to carry out the provisions of this paragraph, including,
13 among others, those for determining the adjusted basis of the
14 acquired property for the purposes of the Corporation Business Tax
15 Act (1945), P.L.1945, c.162.

16 (13)(A) Notwithstanding the provisions of section 179 of the
17 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for
18 property placed in service on or after January 1, 2004, the costs that
19 a taxpayer may otherwise elect to treat as an expense which is not
20 chargeable to a capital account shall be determined pursuant to the
21 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
22 s.1 et seq.) in effect on December 31, 2002.

23 (B) The director shall prescribe the rules and regulations
24 necessary to carry out the provisions of this paragraph, including,
25 among others, those for determining the adjusted basis of the
26 acquired property for the purposes of the Corporation Business Tax
27 Act (1945), P.L.1945, c.162.

28 (14)Notwithstanding the provisions of subsection (i) of section
29 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
30 for privilege periods beginning after December 31, 2008 and before
31 January 1, 2011, entire net income shall include the amount of
32 discharge of indebtedness income excluded for federal income tax
33 purposes pursuant to subsection (i) of section 108 of the federal
34 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
35 periods beginning on or after January 1, 2014 and before January 1,
36 2019, entire net income shall exclude the amount of discharge of
37 indebtedness income included for federal income tax purposes,
38 pursuant to subsection (i) of section 108 of the federal Internal
39 Revenue Code of 1986 (26 U.S.C. s.108).

40 (15)Entire net income shall exclude the gain or income derived
41 from the sale or assignment of a tax credit transfer certificate
42 pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) **[and]**,
43 section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New Jersey
44 Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et
45 al.), as amended and supplemented.

46 (16)(A) There shall be allowed as a deduction an amount
47 computed in accordance with this paragraph.

1 (B) For purposes of this paragraph, "net deferred tax liability"
2 means deferred tax liabilities that exceed the deferred tax assets of
3 the combined group, as computed in accordance with generally
4 accepted accounting principles, and "net deferred tax asset" means
5 that deferred tax assets exceed the deferred tax liabilities of the
6 combined group, as computed in accordance with generally
7 accepted accounting principles.

8 (C) Only publicly traded companies, including affiliated
9 corporations participating in the filing of a publicly traded
10 company's financial statements prepared in accordance with
11 generally accepted accounting principles, as of the effective date of
12 this paragraph, shall be eligible for this deduction.

13 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48
14 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to
15 the members' net deferred tax liability or an aggregate decrease to
16 the members' net deferred tax asset, or an aggregate change from a
17 net deferred tax asset to a net deferred tax liability, the combined
18 group shall be entitled to a deduction, as determined in this
19 paragraph.

20 (E) (i) Beginning with the combined group's first privilege
21 period on or after January 1 of the fifth year after the effective date
22 of P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
23 entitled to a deduction from combined group entire net income
24 equal to one-tenth of the amount necessary to offset the increase in
25 the net deferred tax liability or decrease in the net deferred tax
26 asset, or aggregate change from a net deferred tax asset to a net
27 deferred tax liability, according to the schedule provided by
28 subparagraphs (ii) and (iii) of this subparagraph (E). Such
29 increase in the net deferred tax liability or decrease in the net
30 deferred tax asset or the aggregate change from a net deferred tax
31 asset to a net deferred tax liability shall be computed based on the
32 change that would result from the imposition of the unitary
33 reporting requirements under sections 1 and 18 through 23 of
34 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-
35 4.11) but for the deduction provided under this paragraph as of the
36 effective date of this paragraph.

37 (ii) For group privilege periods beginning on and after January
38 1, 2023, but before January 1, 2030, the combined group may
39 deduct one percent of the amount necessary to offset the increase in
40 the net deferred tax liability or decrease in the net deferred tax
41 asset, or aggregate change from a net deferred tax asset to a net
42 deferred tax liability, during a group privilege period. Such
43 increase in the net deferred tax liability or decrease in the net
44 deferred tax asset or the aggregate change from a net deferred tax
45 asset to a net deferred tax liability shall be computed based on the
46 change that would result from the imposition of the unitary
47 reporting requirements under sections 1 and 18 through 23 of
48 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-

1 4.11) but for the deduction provided under this paragraph as of the
2 effective date of this paragraph.

3 (iii) For group privilege periods beginning on and after January
4 1, 2030, the combined group may deduct up to five percent of any
5 remaining unused amount of the deduction during the group
6 privilege period, until the group privilege period in which the total
7 deduction amount has been fully utilized. Such increase in the net
8 deferred tax liability or decrease in the net deferred tax asset or the
9 aggregate change from a net deferred tax asset to a net deferred tax
10 liability shall be computed based on the change that would result
11 from the imposition of the unitary reporting requirements under
12 sections 1 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and
13 C.54:10A-4.6 to C.54:10A-4.11) but for the deduction provided
14 under this paragraph as of the effective date of this paragraph.

15 (F) The deferred tax impact determined in subparagraph (E) of
16 this paragraph must be converted to the annual Deferred Tax
17 Deduction amount, as follows:

18 (i) the deferred tax impact determined in subparagraph (E) of
19 this paragraph shall be divided by the rate determined under section
20 5 of P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018,
21 c.48 (C.54:10A-5.41 et al.);

22 (ii) the resulting amount shall be further divided by the New
23 Jersey unitary business allocation factor that was used by the
24 combined group in the calculation of the deferred tax assets and
25 deferred tax liabilities as described in subparagraph (E) of this
26 paragraph;

27 (iii) the resulting amount represents the total net Deferred Tax
28 Deduction available over the period as described in subparagraph
29 (E) of this paragraph.

30 (G) The deduction calculated under this paragraph shall not be
31 adjusted as a result of any events happening subsequent to such
32 calculation, including, but not limited to, any disposition or
33 abandonment of assets. Such deduction shall be calculated without
34 regard to the federal tax effect and shall not alter the tax basis of
35 any asset. If the deduction under this section is greater than
36 combined group entire net income, any excess deduction shall be
37 carried forward and applied as a deduction to combined group entire
38 net income in future privilege periods until fully utilized.

39 (H) Any combined group intending to claim a deduction under
40 this paragraph shall file a statement with the director on or before
41 July 1 of the year subsequent to the first privilege period for which
42 a combined return is required. Such statement shall specify the total
43 amount of the deduction which the combined group claims on such
44 form and in such manner as prescribed by the director. No
45 deduction shall be allowed under this paragraph for any privilege
46 period except to the extent claimed on such timely filed statement
47 in accordance with this paragraph.

1 (17)(A) In the case of a taxpayer that is a cannabis licensee,
2 there shall be allowed as a deduction an amount equal to any
3 expenditure that is eligible to be claimed as a federal income tax
4 deduction but is disallowed because cannabis is a controlled
5 substance under federal law, and income shall be determined
6 without regard to section 280E of the Internal Revenue Code (26
7 U.S.C. s.280E) for cannabis licensees.

8 (B) In the case of a taxpayer that is a cannabis licensee, there
9 shall be allowed as a deduction an amount equal to any expenditure
10 that would qualify as a specified research or experimental
11 expenditure pursuant to section 174 of the Internal Revenue Code
12 but is disallowed as a deduction for federal tax purposes because
13 cannabis is a controlled substance under federal law. Any
14 expenditure that is claimed as a deduction pursuant to this
15 subparagraph may also be claimed as a qualified research expense
16 for purposes of the credit allowed pursuant to section 1 of P.L.1993,
17 c.175 (C.54:10A-5.24).

18 (C) For purposes of this paragraph, "licensee" means the same as
19 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

20 (18)For privilege periods ending on and after July 31, 2022:

21 (A) Notwithstanding subparagraph (A) of paragraph (2) of this
22 subsection or any other law or treaty to the contrary, for a
23 corporation that is incorporated or formed in a foreign nation with a
24 comprehensive tax treaty with the United States, and that is not a
25 member of a world-wide group combined return filed pursuant to
26 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11),
27 entire net income shall not include an item of income or loss
28 excluded or exempted from federal taxable income under the terms
29 of the treaty, and no other deduction, exclusion, or elimination shall
30 be permitted for an item of income or loss excluded by this
31 paragraph.

32 (B) For a non-U.S. corporation that files a federal tax return and
33 is not a member of a combined group filing a New Jersey combined
34 return on a world-wide basis pursuant to subsection b. of section 23
35 of P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall
36 only include its income or loss included in federal taxable income,
37 which shall be limited to only the non-U.S. corporation's effectively
38 connected income or loss, as modified by the provisions of the
39 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
40 et seq.), and the items of expense and the allocation factor receipts
41 attributable to such items of income or loss.

42 (l) "Real estate investment trust" shall mean any corporation,
43 trust or association qualifying and electing to be taxed as a real
44 estate investment trust under federal law.

45 (m) "Financial business corporation" shall mean any corporate
46 enterprise which is (1) in substantial competition with the business
47 of national banks and which (2) employs moneyed capital with the
48 object of making profit by its use as money, through discounting

1 and negotiating promissory notes, drafts, bills of exchange and
2 other evidences of debt; buying and selling exchange; making of or
3 dealing in secured or unsecured loans and discounts; dealing in
4 securities and shares of corporate stock by purchasing and selling
5 such securities and stock without recourse, solely upon the order
6 and for the account of customers; or investing and reinvesting in
7 marketable obligations evidencing indebtedness of any person,
8 copartnership, association or corporation in the form of bonds,
9 notes or debentures commonly known as investment securities; or
10 dealing in or underwriting obligations of the United States, any
11 state or any political subdivision thereof, or of a corporate
12 instrumentality of any of them. This shall include, without
13 limitation of the foregoing, business commonly known as industrial
14 banks, dealers in commercial paper and acceptances, sales finance,
15 personal finance, small loan and mortgage financing businesses, as
16 well as any other enterprise employing moneyed capital coming
17 into competition with the business of national banks; provided that
18 the holding of bonds, notes, or other evidences of indebtedness by
19 individual persons not employed or engaged in the banking or
20 investment business and representing merely personal investments
21 not made in competition with the business of national banks, shall
22 not be deemed financial business. Nor shall "financial business"
23 include national banks, production credit associations organized
24 under the Farm Credit Act of 1933 or the Farm Credit Act of 1971,
25 Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual
26 insurance companies duly authorized to transact business in this
27 State, security brokers or dealers or investment companies or
28 bankers not employing moneyed capital coming into competition
29 with the business of national banks, real estate investment trusts, or
30 any of the following entities organized under the laws of this State:
31 credit unions, savings banks, savings and loan and building and
32 loan associations, pawnbrokers, and State banks and trust
33 companies.

34 (n) "International banking facility" shall mean a set of asset and
35 liability accounts segregated on the books and records of a
36 depository institution, United States branch or agency of a foreign
37 bank, or an Edge or Agreement Corporation that includes only
38 international banking facility time deposits and international
39 banking facility extensions of credit as such terms are defined in
40 section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the
41 board of governors of the Federal Reserve System, 12 CFR Part
42 204, effective December 3, 1981. In the event that the United States
43 enacts a law, or the board of governors of the Federal Reserve
44 System adopts a regulation which amends the present definition of
45 international banking facility or of such facilities' time deposits or
46 extensions of credit, the Commissioner of Banking and Insurance
47 shall forthwith adopt regulations defining such terms in the same
48 manner as such terms are set forth in the laws of the United States

1 or the regulations of the board of governors of the Federal Reserve
2 System. The regulations of the Commissioner of Banking and
3 Insurance shall thereafter provide the applicable definitions.

4 (o) "S corporation" means a corporation that has elected to be an
5 "S corporation" pursuant to section 1361 of the federal Internal
6 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

7 (p) "New Jersey S corporation" means a taxpayer that has made
8 a valid election to be an S corporation for federal tax purposes, and
9 that has not made a valid election pursuant to subsection d. of
10 section 20 of P.L.2022, c.133 (C.54:10A-5.22).

11 (q) "Public Utility" means "public utility" as defined in
12 R.S.48:2-13.

13 (r) "Qualified investment partnership" means a partnership
14 under this act that has more than 10 members or partners with no
15 member or partner owning more than a 50% interest in the entity
16 and that derives at least 90% of its gross income from dividends,
17 interest, payments with respect to securities loans, and gains from
18 the sale or other disposition of stocks or securities or foreign
19 currencies or commodities or other similar income (including but
20 not limited to gains from swaps, options, futures or forward
21 contracts) derived with respect to its business of investing or
22 trading in those stocks, securities, currencies or commodities, but
23 "investment partnership" shall not include a "dealer in securities"
24 within the meaning of section 1236 of the federal Internal Revenue
25 Code of 1986, 26 U.S.C. s.1236.

26 (s) "Savings institution" means a state or federally chartered
27 building and loan association, savings and loan association, or
28 savings bank.

29 (t) "Partnership" means an entity classified as a partnership for
30 federal income tax purposes.

31 (u) "Prior net operating loss conversion carryover" means a net
32 operating loss incurred in a privilege period ending prior to July 31,
33 2019 and converted from a pre-allocation net operating loss to a
34 post-allocation net operating loss as follows:

35 (1) As used in this subsection:

36 "Base year" means the last privilege period ending prior to July
37 31, 2019.

38 "Base year BAF" means the taxpayer's business allocation factor
39 as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-
40 6 through C.54:10A-10) for purposes of calculating entire net
41 income for the base year, as such section was in effect for the last
42 privilege period ending prior to July 31, 2019.

43 "UNOL" means the unabsorbed portion of net operating loss as
44 calculated under paragraph (6) of subsection (k) of this section as
45 such paragraph was in effect for the last privilege period ending
46 prior to July 31, 2019, that was not deductible in previous privilege
47 periods and was eligible for carryover on the last day of the base
48 year subject to the limitations for deduction under such subsection,

1 including any net operating loss sustained by the taxpayer during
2 the base year.

3 (2) The prior net operating loss conversion carryover shall be
4 calculated as follows:

5 (A) The taxpayer shall first calculate the tax value of its UNOL
6 for the base year and for each preceding privilege period for which
7 there is a UNOL. The value of the UNOL for each privilege period
8 is equal to the product of (I) the amount of the taxpayer's UNOL for
9 a privilege period, and (II) the taxpayer's base year BAF. This result
10 shall equal the taxpayer's prior net operating loss conversion
11 carryover.

12 (B) The taxpayer shall continue to carry over its prior net
13 operating loss conversion carryover to offset its allocated entire net
14 income as provided in sections 6 through 10 of P.L.1945, c.162
15 (C.54:10A-6 through C.54:10A-10) for privilege periods ending on
16 and after July 31, 2019. Such carryover periods shall not exceed the
17 twenty privilege periods following the privilege period of the initial
18 loss. The entire amount of the prior net operating loss conversion
19 carryover for any privilege period shall be carried to the earliest of
20 the privilege periods to which the loss may be carried. The portion
21 of the prior net operating loss conversion carryover which shall be
22 carried to each of the other privilege periods shall be the excess, if
23 any, of the amount of the prior net operating loss conversion
24 carryover over the sum of the entire net income, computed without
25 the exclusions permitted in paragraphs (4) and (5) of subsection (k)
26 of this section allocated to this State. For privilege periods ending
27 on and after July 31, 2023, for the purpose of computing taxable net
28 income for a current privilege period, the amount of the prior net
29 operating loss conversion carryover shall be subtracted from entire
30 net income allocated to this State, after the application of
31 paragraphs (4) and (5) of subsection (k) of this section against
32 current privilege period income when the entire net income
33 allocated to this State for the privilege period is greater than zero.

34 (C) The prior net operating loss conversion carryover computed
35 under this subsection shall be applied against the entire net income
36 allocated to this State before the net operating loss carryover
37 computed under subsection (v) of this section.

38 (v) "Net operating loss deduction" means the amount allowed as
39 a deduction for the net operating loss carryover to the privilege
40 period, calculated as follows:

41 (1) Net operating loss carryover. A net operating loss for any
42 privilege period ending on or after July 31, 2019, shall be a net
43 operating loss carryover to each of the twenty privilege periods
44 following the period of the loss. The entire amount of the net
45 operating loss for any privilege period shall be carried to the earliest
46 of the privilege periods to which the loss may be carried. For
47 privilege periods ending before July 31, 2023, the portion of the
48 loss which shall be carried to each of the other privilege periods

1 shall be the excess, if any, of the amount of the loss over the sum of
2 the entire net income, computed without the exclusions permitted in
3 paragraphs (4) and (5) of subsection (k) of this section allocated to
4 this State. For privilege periods ending on and after July 31, 2023,
5 the portion of the loss that shall be carried to each of the other
6 privilege periods shall be the excess, if any, of the amount of the
7 loss over the sum of the entire net income, after the application of
8 paragraphs (4) and (5) of subsection (k) of this section allocated to
9 this State; provided, however, for the purpose of computing taxable
10 net income for the privilege period, the net operating loss carryover
11 shall only be subtracted from entire net income allocated to this
12 State when the entire net income allocated to this State is greater
13 than zero.

14 (2) Net operating loss. For purposes of this paragraph the term
15 "net operating loss" means the excess of the deductions over the
16 gross income used in computing entire net income, without regard
17 to any net operating loss carryover, and for privilege periods ending
18 before July 31, 2023, computed without the exclusions in
19 paragraphs (4) and (5) of subsection (k) of this section, and for
20 privilege periods ending on and after July 31, 2023, computed after
21 the application of paragraphs (4) and (5) of subsection (k) of this
22 section, allocated to this State pursuant to sections 6 through 10 of
23 P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10).

24 (3) Reduction for discharge of indebtedness. A net operating
25 loss for any privilege period ending on or after July 31, 2019, and
26 any net operating loss carryover to such privilege period, shall be
27 reduced by the amount excluded from federal taxable income under
28 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
29 section 108 of the federal Internal Revenue Code, 26 U.S.C. s.108,
30 for the privilege period of the discharge of indebtedness.

31 (4) A net operating loss carryover shall not include any net
32 operating loss incurred during any privilege period ending prior to
33 July 31, 2019.

34 (5) Change in ownership. Where there is a change in 50% or
35 more of the ownership of a corporation because of redemption or
36 sale of stock and the corporation changes the trade or business
37 giving rise to the loss, no net operating loss sustained before the
38 changes may be carried over to be deducted from income earned
39 after such changes. In addition, where the facts support the premise
40 that the corporation was acquired under any circumstances for the
41 primary purpose of the use of its net operating loss carryover, the
42 director may disallow the carryover; provided, however, this
43 paragraph shall not apply between members of a combined group
44 reported on a New Jersey combined return.

45 (w) "Taxable net income" means entire net income allocated to
46 this State as calculated pursuant to sections 6 through 8 of
47 P.L.1945, c.162 (C.54:10A-6 through 54:10A-8) as modified by
48 subtracting any prior net operating loss conversion carryforward

1 calculated pursuant to subsection (u) of this section, and any net
2 operating loss calculated pursuant to subsection (v) of this section;
3 provided, however, for privilege periods ending on and after July
4 31, 2023, when subtracting any net operating losses calculated
5 pursuant to subsection (v) of this section or the combined group net
6 operating losses calculated pursuant to subsection h. of section 18
7 of P.L.2018, c.48 (C.54:10A-4.6), the limitation set forth in
8 paragraph (2) of subsection (a) of Internal Revenue Code Section
9 172 (26 U.S.C. s.172(a)(2)) shall apply, except that August 1, 2023
10 is substituted for the reference to January 1, 2018 in subparagraph
11 (A) of paragraph (2) of subsection a. of Internal Revenue Code
12 Section 172 (26 U.S.C. s.172), and July 31, 2023 is substituted for
13 the reference to December 31, 2017 in subparagraph (B) of
14 paragraph (2) of subsection (a) of Internal Revenue Code Section
15 172 (26 U.S.C. s.172). For privilege periods ending on and after
16 July 31, 2023, for a combined group, before subtracting the prior
17 net operating loss conversion carryforwards and subtracting the net
18 operating losses of the combined group when computing the total
19 taxable net income, the combined group shall first add together the
20 allocated entire net income from the unitary business of the
21 combined group and the portion of allocated entire net income of
22 members with activities independent of the group, and then subtract
23 the prior net operating loss conversion carryforwards and then the
24 net operating losses.

25 (x) "Affiliated group" means, for purposes of section 23 of
26 P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in
27 section 1504 of the federal Internal Revenue Code, 26 U.S.C.
28 s.1504, except such affiliated group shall include all U.S. domestic
29 corporations that are commonly owned, directly or indirectly, by
30 any member of such affiliated group, without regard to whether the
31 affiliated group includes (1) corporations included in more than one
32 federal consolidated return, (2) corporations engaged in one or more
33 unitary businesses, or (3) corporations that are not engaged in a
34 unitary business with any other member of the affiliated group.

35 For purposes of this subsection:

36 "U.S. domestic corporations" means: (1) business entities
37 wherever incorporated or formed that are U.S. domestic
38 corporations, are deemed to be, or are treated as U.S. domestic
39 corporations under the provisions of the federal Internal Revenue
40 Code; or (2) any entities incorporated or formed under the laws of a
41 foreign nation that are required to file federal tax returns if such
42 entities have effectively connected income within the meaning of
43 the federal Internal Revenue Code; and

44 "Commonly owned" means that more than 50 percent of the
45 voting control of each member of an affiliated group is directly or
46 indirectly owned by a common owner or owners, either corporate or
47 non-corporate, whether or not the owner or owners are members of
48 the affiliated group. Whether voting control is indirectly owned

1 shall be determined in accordance with section 318 of the federal
2 Internal Revenue Code (26 U.S.C. s.318).

3 (y) "Combinable captive insurance company" means an entity
4 that is treated as an association taxable as a corporation under the
5 federal Internal Revenue Code:

6 (1) more than 50% of the voting stock of which is owned or
7 controlled, directly or indirectly, by a single entity that is treated as
8 an association taxable as a corporation under the federal Internal
9 Revenue Code, and not exempt from federal income tax;

10 (2) that is licensed as a captive insurance company under the
11 laws of this State or another jurisdiction;

12 (3) whose business includes providing, directly and indirectly,
13 insurance or reinsurance covering the risks of its parent, members
14 of its affiliated group, or both; and

15 (4) 50% or less of whose gross receipts for the privilege period
16 consist of premiums from arrangements that constitute insurance for
17 federal income tax purposes.

18 A combinable captive insurance company shall not be exempt
19 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive
20 insurance company that does not meet the definition of combinable
21 captive insurance company shall be excluded as provided in
22 subsection k. of section 18 of P.L.2018, c.48 (C.54:10A-4.6) and
23 shall be exempt under section 3 of P.L.1945, c.162 (C.54:10A-3).

24 For purposes of this definition:

25 "Affiliated group" shall have the same meaning as that term is
26 given by section 1504 of the federal Internal Revenue Code, 26
27 U.S.C. s.1504, except that the term "common parent corporation" as
28 used in section 1504 of the federal Internal Revenue Code, 26
29 U.S.C. s.1504, shall mean any person, as defined in section 7701 of
30 the federal Internal Revenue Code, 26 U.S.C. s.7701, and references
31 to "at least 80%" in section 1504 of the federal Internal Revenue
32 Code, 26 U.S.C. s.1504, shall be read as "50% or more." Section
33 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall
34 be read without regard to the exclusions provided for in subsection
35 (b) of that section.

36 "Gross receipts" includes the amounts included in gross receipts
37 for purposes of paragraph (15) of subsection (c) of section 501 of
38 the federal Internal Revenue Code, 26 U.S.C. s.501, except that
39 those amounts also include all premiums.

40 "Premiums" includes consideration for annuity contracts and
41 excludes any part of the consideration for insurance, reinsurance, or
42 annuity contracts that do not provide bona fide insurance,
43 reinsurance, or annuity benefits.

44 (z) "Combined group" means the group of all companies that
45 have common ownership and are engaged in a unitary business,
46 where at least one company is subject to tax under this chapter, and
47 shall include all business entities, except as provided for under any

1 section of the Corporation Business Tax Act (1945), P.L.1945,
2 c.162 (C.54:10A-1 et seq.).

3 A combined group shall be treated, for privilege periods ending
4 on and after July 31, 2020, as one taxpayer for purposes of
5 paragraph (1) of subsection (c) of section 5 of P.L.1945, c.162
6 (C.54:10A-5) and section 1 of P.L.2018, c.48 (C.54:10A-5.41) for
7 the income derived from the unitary business; provided however,
8 with regard to the surtax imposed pursuant to section 1 of P.L.2018,
9 c.48 (C.54:10A-5.41) and for that purpose only, the portion of
10 income that is attributable to a member which is a public utility
11 exempt from the surtax shall not be included when computing the
12 surtax due.

13 (aa) "Common ownership" means that more than 50% of the
14 voting control of each member of a combined group is directly or
15 indirectly owned by a common owner or owners, either corporate or
16 non-corporate, whether or not the owner or owners are members of
17 the combined group. Whether voting control is indirectly owned
18 shall be determined in accordance with section 318 of the federal
19 Internal Revenue Code, 26 U.S.C. s.318.

20 (bb) "Group privilege period" means, if two or more members in
21 the combined group file in the same federal consolidated tax return,
22 the same income year as that used on the federal consolidated tax
23 return and, in all other cases, the privilege period of the managerial
24 member.

25 (cc) "Managerial member" means if the combined group has a
26 common parent corporation and that common parent corporation is
27 a taxable member, the managerial member shall be the common
28 parent corporation. In other cases, the combined group shall select a
29 taxable member as its managerial member or, in the discretion of
30 the director or upon failure of the combined group to select its
31 managerial member, the director shall designate a taxable member
32 of the combined group as managerial member.

33 (dd) "Member" means a business entity that is a part of a
34 combined group.

35 A corporation exempt pursuant to section 3 of P.L.1945, c.162
36 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1
37 et seq.) shall not be a member of a combined group.

38 (ee) "Nontaxable member" means a member that is: (i) not
39 subject to tax pursuant to the Corporation Business Tax Act (1945),
40 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by
41 amendment, P.L.2020, c.118 (C.54:10A-5.46 et al.).

42 (ff) "Taxable member" means a member that is subject to tax
43 pursuant to the Corporation Business Tax Act (1945), P.L.1945,
44 c.162 (C.54:10A-1 et seq.).

45 A New Jersey S corporation shall only be included as a taxable
46 member of a combined group filing a New Jersey combined return
47 if the New Jersey S Corporation elects to be included as a member
48 and taxed at the same rate as the other members of the combined

1 group. A New Jersey S corporation that does not elect to be
2 included shall be excluded as a member of the combined return and
3 shall file a separate return.

4 (gg)"Unitary business" means, for privilege periods ending
5 before July 31, 2023, a single economic enterprise that is made up
6 either of separate parts of a single business entity or of a group of
7 business entities under common ownership that are sufficiently
8 interdependent, integrated, and interrelated through their activities
9 so as to provide a synergy and mutual benefit that produces a
10 sharing or exchange of value among them and a significant flow of
11 value among the separate parts. For privilege periods ending on
12 and after July 31, 2023, "unitary business" means a single economic
13 enterprise that is made up either of separate parts of a single
14 business entity or of a group of business entities under common
15 ownership that are sufficiently interdependent, integrated, or
16 interrelated through their activities so as to provide a synergy and
17 mutual benefit that produces a sharing or exchange of value among
18 them and a significant flow of value among the separate parts.
19 "Unitary business" shall be construed to the broadest extent
20 permitted under the Constitution of the United States. A business
21 conducted by a partnership which is in a unitary business with the
22 combined group shall be treated as the business of the partners that
23 are members of the combined group, whether the partnership
24 interest is held directly or indirectly through a series of
25 partnerships, to the extent of a partner's distributive share of
26 partnership income. The amount of partnership income to be
27 included in the partner's entire net income shall be determined in
28 accordance with subsection a. of section 3 of P.L.2001, c.136
29 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136
30 (C.54:10A-15.7), as applicable. A business conducted directly or
31 indirectly by one corporation is unitary with that portion of a
32 business conducted by another corporation through its direct or
33 indirect interest in a partnership.

34 (hh)"Captive investment company" shall mean, for privilege
35 periods ending on and after July 31, 2023, an investment company
36 that is not regularly traded on an established securities market and
37 of which more than 50 percent of the voting stock is owned or
38 controlled, directly or indirectly, by a single corporation, other than
39 an investment company, that is not exempt from federal income tax.
40 For purposes of this subsection, a captive investment company shall
41 not include any captive investment company of which at least 50
42 percent of the shares, by vote or value, is owned or controlled,
43 directly or indirectly, by a state or federally chartered bank, savings
44 bank, or savings and loan association with assets that do not exceed
45 \$15 billion.

46 For privilege periods ending on and after July 31, 2023, any
47 voting stock in an investment company that is held in a segregated
48 asset account of a life insurance corporation, as described in section

1 817 of the Internal Revenue Code, shall not be taken into account
2 for purposes of determining whether an investment company is a
3 captive regulated investment company.

4 For privilege periods ending on and after July 31, 2023, a captive
5 investment company shall be taxed in the same manner as a C
6 corporation, and subsection d. of section 5 of P.L. 1945, c. 162 (C.
7 54:10A-5) shall not apply. A captive investment company shall not
8 be permitted to claim any deductions or expenses that were
9 permitted for federal purposes, solely as a result of the entity being
10 an investment company, when computing federal taxable net
11 income. A captive investment company shall be a member of a
12 combined group and shall be included as a member on the
13 combined return.

14 (ii) "Captive real estate investment trust" shall mean, for
15 privilege periods ending on and after July 31, 2023, a real estate
16 investment trust that is not regularly traded on an established
17 securities market and of which more than 50 percent of the voting
18 stock is owned or controlled, directly or indirectly, by a single
19 entity that is treated as an association taxable as a corporation under
20 the Internal Revenue Code, is not exempt from federal income tax,
21 and is not a real estate investment trust. For purposes of this
22 subsection, a captive real estate investment trust shall not include
23 any captive real estate investment trust of which at least 50 percent
24 of the shares, by vote or value, is owned or controlled, directly or
25 indirectly, by a state or federally chartered bank, savings bank, or
26 savings and loan association with assets that do not exceed \$15
27 billion.

28 For privilege periods ending on and after July 23, 2023, any
29 voting stock in a real estate investment trust that is held in a
30 segregated asset account of a life insurance corporation, as
31 described in section 817 of the Internal Revenue Code (26 U.S.C.
32 s.817), shall not be taken into account for purposes of determining
33 whether a real estate investment trust is a captive real estate
34 investment trust. For purposes of this subsection, an association
35 taxable as a corporation shall not include any listed Australian
36 property trust or any qualified foreign entity.

37 For privilege periods ending on and after July 31, 2023, a captive
38 real estate investment trust shall be taxed in the same manner as a C
39 corporation, and subsection d. of section 5 of P.L.1945, c.162
40 (C.54:10A-5) shall not apply. A captive real estate investment trust
41 shall not be permitted to claim any deductions or expenses that were
42 permitted for federal purposes, solely as a result of the entity being
43 a real estate investment trust, when computing federal taxable net
44 income. A captive real estate investment trust shall be a member of
45 a combined group and shall be included as a member on the
46 combined return.

47 As used in this subsection:

1 "Australian property trust" means an Australian unit trust that is
2 registered as a managed investment scheme under the Australian
3 Corporations Act, and in which the principal class of units is listed
4 on a recognized stock exchange in Australia and is regularly traded
5 on an established securities market; or an entity organized as a trust,
6 provided that a listed Australian property trust owns or controls,
7 directly or indirectly, 75 percent or more of the voting power or
8 value of the beneficial interests of shares of the trust.

9 "Qualified foreign entity" means a corporation, trust, association,
10 or partnership that is organized outside the laws of the United States
11 and that satisfies the following criteria:

12 (1) At least 75 percent of the entity's total asset value at the
13 close of its taxable year is represented by real estate assets, as
14 defined at subparagraph (B) of paragraph (5) of subsection (c) of
15 section 856 of the Internal Revenue Code (26 U.S.C. s.856),
16 including shares or certificates of beneficial interest in any real
17 estate investment trust, cash and cash equivalents, and United States
18 Government securities;

19 (2) The entity is not subject to tax on amounts distributed to its
20 beneficial owners, or is exempt from entity-level taxation;

21 (3) The entity distributes, on an annual basis, at least 85 percent
22 of its taxable income, as computed in the jurisdiction in which it is
23 organized, to the holders of its shares or certificates of beneficial
24 interest;

25 (4) No more than 10 percent of the voting power or value in the
26 entity is held directly, indirectly, or constructively by a single entity
27 or individual, or the shares or certificates of beneficial interests of
28 the entity are regularly traded on an established securities market;
29 and

30 (5) The entity is organized in a country that has a tax treaty with
31 the United States.

32 (jj) "Captive regulated investment company" shall mean, for
33 privilege periods ending on and after July 31, 2023, a regulated
34 investment company that is not regularly traded on an established
35 securities market, and of which more than 50 percent of the voting
36 stock is owned or controlled, directly or indirectly, by a single
37 corporation, other than a regulated investment company, that is not
38 exempt from federal income tax. For purposes of this subsection, a
39 captive regulated investment company shall not include any captive
40 regulated investment company of which at least 50 percent of the
41 shares, by vote or value, is owned or controlled, directly or
42 indirectly, by a state or federally chartered bank, savings bank, or
43 savings and loan association with assets that do not exceed \$15
44 billion.

45 For privilege periods ending on and after July 31, 2023, any
46 voting stock in a regulated investment company that is held in a
47 segregated asset account of a life insurance corporation, as
48 described in section 817 of the Internal Revenue Code (26 U.S.C.

1 s.817), shall not be taken into account for purposes of determining
2 whether a regulated investment company is a captive regulated
3 investment company.

4 For privilege periods ending on and after July 31, 2023, a captive
5 regulated investment company shall be taxed in the same manner as
6 a C corporation and subsection d. of section 5 of P.L.1945, c.162
7 (C.54:10A-5) shall not apply. A captive real estate investment
8 company shall not be permitted to claim any deductions or expenses
9 that were permitted for federal purposes, solely as a result of the
10 entity being a regulated investment company, when computing
11 federal taxable net income. A captive regulated investment
12 company shall be a member of a combined group and shall be
13 included as a member on the combined return.

14 (kk) "World-wide basis" and "world-wide group" shall mean, for
15 privilege periods ending on and after July 31, 2022, for the
16 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6
17 through C.54:10A-4.11) and for the purposes of combined reporting
18 in general under the Corporation Business Tax Act (1945),
19 P.L.1945, c.162 (C.54:10A-1 et seq.), that the combined group shall
20 include all of the members of the combined group, wherever located
21 or formed. For privilege periods ending on and after July 31, 2022,
22 the combined group shall include all of the income and attributes of
23 those members regardless of how or whether those members file
24 federal returns or report or include their income in federal taxable
25 income for federal purposes, and without regard to any exemption
26 or exclusion from federal taxable income under the terms of a tax
27 treaty; provided, however, any deductions that are allowed under
28 the federal Internal Revenue Code that are also allowable under the
29 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
30 et seq.), that would apply to a U.S. corporation, but that a non-U.S.
31 corporation is prohibited from claiming for federal corporation
32 income tax purposes because the corporation's income was not
33 included in federal taxable income for any reason or because the
34 corporation is a non-U.S. corporation, shall be allowed for the non-
35 U.S. corporation members of the combined group for New Jersey
36 corporation business tax purposes as though those non-U.S.
37 corporation members were U.S. corporations.

38 (cf: P.L.2023, c.96, s.1)

39

40 15. N.J.S.54A:5-1 is amended to read as follows:

41 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
42 income shall consist of the following categories of income:

43 a. Salaries, wages, tips, fees, commissions, bonuses, and other
44 remuneration received for services rendered whether in cash or in
45 property, and amounts paid or distributed, or deemed paid or
46 distributed, out of a medical savings account that are not excluded
47 from gross income pursuant to section 5 of P.L.1997, c.414
48 (C.54A:6-27).

1 b. Net profits from business. The net income from the
2 operation of a business, profession or other activity after provision
3 for all costs and expenses incurred in the conduct thereof,
4 determined either on a cash or accrual basis in accordance with the
5 method of accounting allowed for federal income tax purposes but
6 without deduction of the amount of:

7 (1) taxes based on income;
8 (2) a civil, civil administrative, or criminal penalty or fine,
9 including a penalty or fine under an administrative consent order,
10 assessed and collected for a violation of a State or federal
11 environmental law, an administrative consent order, or an
12 environmental ordinance or resolution of a local governmental
13 entity, and any interest earned on the penalty or fine, and any
14 economic benefits having accrued to the violator as a result of a
15 violation, which benefits are assessed and recovered in a civil, civil
16 administrative, or criminal action, or pursuant to an administrative
17 consent order. The provisions of this paragraph shall not apply to a
18 penalty or fine assessed or collected for a violation of a State or
19 federal environmental law, or local environmental ordinance or
20 resolution, if the penalty or fine was for a violation that resulted
21 from fire, riot, sabotage, flood, storm event, natural cause, or other
22 act of God beyond the reasonable control of the violator, or caused
23 by an act or omission of a person who was outside the reasonable
24 control of the violator; and

25 (3) treble damages paid to the Department of Environmental
26 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
27 (C.58:10-23.11f) for costs incurred by the department in removing,
28 or arranging for the removal of, an unauthorized discharge upon the
29 failure of the discharger to comply with a directive from the
30 department to remove, or arrange for the removal of, a discharge.

31 c. Net gains or income from disposition of property. Net gains
32 or net income, less net losses, derived from the sale, exchange or
33 other disposition of property, including real or personal, whether
34 tangible or intangible as determined in accordance with the method
35 of accounting allowed for federal income tax purposes. For the
36 purpose of determining gain or loss, the basis of property shall be
37 the adjusted basis used for federal income tax purposes, except as
38 expressly provided for under this act, but without a deduction for
39 penalties, fines, or economic benefits excepted pursuant to
40 paragraph (2), or for treble damages excepted pursuant to paragraph
41 (3) of subsection b. of this section.

42 A taxpayer's net gain or loss on the sale, exchange or other
43 disposition of a share of an S corporation shall be calculated by
44 increasing the adjusted basis of the share by an amount equal to the
45 shareholder's net losses and deductions in respect of the share
46 allowed and deducted from income for federal income tax purposes,
47 not including any personal net operating loss deductions, to the
48 extent that such net losses were not offset by the taxpayer's pro rata

1 share of S corporation income otherwise subject to taxation
2 pursuant to subsection p. of this section in respect of another S
3 corporation, subject to rules of priority and assignment determined
4 by the director.

5 For the tax year 1976, any taxpayer with a tax liability under this
6 subsection, or under the "Tax on Capital Gains and Other Unearned
7 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
8 subject to payment of an amount greater than the amount he would
9 have paid if either return had covered all capital transactions during
10 the full tax year 1976; provided, however, that the rate which shall
11 apply to any capital gain shall be that in effect on the date of the
12 transaction. To the extent that any loss is used to offset any gain
13 under P.L.1975, c.172, it shall not be used to offset any gain under
14 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

15 The term "net gains or income" shall not include gains or income
16 derived from obligations which are referred to in clause (1) or (2) of
17 N.J.S.54A:6-14 of this act or from securities which evidence
18 ownership in a qualified investment fund as defined in section 2 of
19 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
20 shall not include gains or income derived from the sale or
21 assignment of a tax credit transfer certificate pursuant to section 7
22 of P.L.2011, c.149 (C.34:1B-248) **[and]**, section 10 of P.L.2014,
23 c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of
24 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
25 supplemented, from any sale or assignment of a tax credit issued
26 pursuant to an award of tax credits approved by the New Jersey
27 Economic Development Authority **[prior to July 1, 2018]**,
28 regardless of when such sale or assignment occurs. The term "net
29 gains or net income" shall not include gains or income from
30 transactions to the extent to which nonrecognition is allowed for
31 federal income tax purposes. The term "sale, exchange or other
32 disposition" shall not include the exchange of stock or securities in
33 a corporation a party to a reorganization in pursuance of a plan of
34 reorganization, solely for stock or securities in such corporation or
35 in another corporation a party to the reorganization and the transfer
36 of property to a corporation by one or more persons solely in
37 exchange for stock or securities in such corporation if immediately
38 after the exchange such person or persons are in control of the
39 corporation. For purposes of this clause, stock or securities issued
40 for services shall not be considered as issued in return for property.

41 For purposes of this clause, the term "reorganization" means**[--]**:

- 42 (i) A statutory merger or consolidation;
43 (ii) The acquisition by one corporation, in exchange solely for
44 all or part of its voting stock (or in exchange solely for all or a part
45 of the voting stock of a corporation which is in control of the
46 acquiring corporation) of stock of another corporation if,
47 immediately after the acquisition, the acquiring corporation has

1 control of such other corporation (whether or not such acquiring
2 corporation had control immediately before the acquisition);

3 (iii) The acquisition by one corporation, in exchange solely for
4 all or part of its voting stock (or in exchange solely for all or a part
5 of the voting stock of a corporation which is in control of the
6 acquiring corporation), of substantially all of the properties of
7 another corporation, but in determining whether the exchange is
8 solely for stock the assumption by the acquiring corporation of a
9 liability of the other, or the fact that property acquired is subject to
10 a liability, shall be disregarded;

11 (iv) A transfer by a corporation of all or a part of its assets to
12 another corporation if immediately after the transfer the transferor,
13 or one or more of its shareholders (including persons who were
14 shareholders immediately before the transfer), or any combination
15 thereof, is in control of the corporation to which the assets are
16 transferred;

17 (v) A recapitalization;

18 (vi) A mere change in identity, form, or place of organization
19 however effected; or

20 (vii) The acquisition by one corporation, in exchange for stock of
21 a corporation (referred to in this subclause as "controlling
22 corporation") which is in control of the acquiring corporation, of
23 substantially all of the properties of another corporation which in
24 the transaction is merged into the acquiring corporation shall not
25 disqualify a transaction under subclause (i) if such transaction
26 would have qualified under subclause (i) if the merger had been into
27 the controlling corporation, and no stock of the acquiring
28 corporation is used in the transaction;

29 (viii) A transaction otherwise qualifying under subclause (i) shall
30 not be disqualified by reason of the fact that stock of a corporation
31 (referred to in this subclause as the "controlling corporation") which
32 before the merger was in control of the merged corporation is used
33 in the transaction, if after the transaction, the corporation surviving
34 the merger holds substantially all of its properties and of the
35 properties of the merged corporation (other than stock of the
36 controlling corporation distributed in the transaction); and in the
37 transaction, former shareholders of the surviving corporation
38 exchanged, for an amount of voting stock of the controlling
39 corporation, an amount of stock in the surviving corporation which
40 constitutes control of such corporation.

41 For purposes of this clause, the term "control" means the
42 ownership of stock possessing at least 80% of the total combined
43 voting power of all classes of stock entitled to vote and at least 80%
44 of the total number of shares of all other classes of stock of the
45 corporation.

46 For purposes of this clause, the term "a party to a reorganization"
47 includes a corporation resulting from a reorganization, and both
48 corporations, in the case of a reorganization resulting from the

1 acquisition by one corporation of stock or properties of another. In
2 the case of a reorganization qualifying under subclause (i) by reason
3 of subclause (vii) the term "a party to a reorganization" includes the
4 controlling corporation referred to in such subclause (vii).

5 Notwithstanding any provisions hereof, upon every such
6 exchange or conversion, the taxpayer's basis for the stock or
7 securities received shall be the same as the taxpayer's actual or
8 attributed basis for the stock, securities or property surrendered in
9 exchange therefor.

10 d. Net gains or net income derived from or in the form of rents,
11 royalties, patents, and copyrights.

12 e. Interest, except interest referred to in clause (1) or (2) of
13 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
14 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
15 extent provided in that section.

16 f. Dividends. "Dividends" means any distribution in cash or
17 property made by a corporation, association or business trust that is
18 not an S corporation, (1) out of accumulated earnings and profits, or
19 (2) out of earnings and profits of the year in which such dividend is
20 paid and any distribution in cash or property made by an S
21 corporation, as specifically determined pursuant to section 16 of
22 P.L.1993, c.173 (C.54A:5-14).

23 The term "dividends" shall not include distributions paid by a
24 qualified investment fund as defined in section 2 of P.L.1987, c.310
25 (C.54A:6-14.1), to the extent provided in that section.

26 g. Gambling winnings.

27 h. Net gains or income derived through estates or trusts.

28 i. Income in respect of a decedent.

29 j. Amounts distributed or withdrawn from an employee trust
30 attributable to contributions to the trust which were excluded from
31 gross income under the provisions of chapter 6 of Title 54A of the
32 New Jersey Statutes, amounts rolled over from an IRA, as defined
33 pursuant to subsection (a) of section 408 of the federal Internal
34 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
35 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
36 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
37 annuities except to the extent of exclusions in N.J.S.54A:6-10
38 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
39 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
40 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
41 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
42 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,
43 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
44 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
45 and P.L.1943, c.189, s.5 (C.43:13-37.5).

46 k. Distributive share of partnership income, excluding the gain
47 or income derived from the sale or assignment of a tax credit
48 transfer certificate pursuant to section 7 of P.L.2011, c.149

1 (C.34:1B-248) **[and]**, section 10 of P.L.2014, c.63 (C.34:1B-251),
2 or the "New Jersey Economic Recovery Act of 2020," P.L.2020,
3 c.156 (C.34:1B-269 et al.), as amended and supplemented, from any
4 sale or assignment of a tax credit issued pursuant to an award of tax
5 credits approved by the New Jersey Economic Development
6 Authority **[prior to July 1, 2018]**, regardless of when such sale or
7 assignment occurs.

8 l. Amounts received as prizes and awards, except as provided
9 in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

10 m. Rental value of a residence furnished by an employer or a
11 rental allowance paid by an employer to provide a home.

12 n. Alimony and separate maintenance payments to the extent
13 that such payments are required to be made under a decree of
14 divorce or separate maintenance but not including payments for
15 support of minor children.

16 o. Income, gain or profit derived from acts or omissions
17 defined as crimes or offenses under the laws of this State or any
18 other jurisdiction.

19 p. Net pro rata share of S corporation income, excluding the
20 gain or income derived from the sale or assignment of a tax credit
21 transfer certificate pursuant to section 7 of P.L.2011, c.149
22 (C.34:1B-248) **[and]**, section 10 P.L.2014, c.63 (C.34:1B-251), or
23 the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156
24 (C.34:1B-269 et al.), as amended and supplemented, from any sale
25 or assignment of a tax credit issued pursuant to an award of tax
26 credits approved by the New Jersey Economic Development
27 Authority **[prior to July 1, 2018]**, regardless of when such sale or
28 assignment occurs.

29 (cf: P.L.2018, c.131, s.8)

30
31 ¹⁶. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended
32 to read as follows:

33 1. a. The New Jersey Economic Development Authority shall
34 adopt rules and regulations requiring that not less than the prevailing
35 wage rate be paid to workers employed in the performance of any
36 construction contract, including contracts for millwork fabrication,
37 undertaken in connection with authority financial assistance or any of
38 its projects, those projects which it undertakes pursuant to P.L.2002,
39 c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of
40 receiving authority financial assistance, including the performance of
41 any contract to construct, renovate or otherwise prepare a facility for
42 operations which are necessary for the receipt of authority financial
43 assistance, unless the work performed under the contract is performed
44 on a facility owned by a landlord of the entity receiving the assistance
45 and less than 35 percent of the facility is leased by the entity at the
46 time of the contract and under any agreement to subsequently lease the
47 facility. The prevailing wage rate shall be the rate determined by the

1 Commissioner of Labor and Workforce Development pursuant to the
2 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
3 purposes of this section, "authority financial assistance" means any
4 loan, loan guarantee, grant, incentive, tax exemption or other financial
5 assistance that is approved, funded, authorized, administered or
6 provided by the authority to any entity and is provided before, during
7 or after completion of a project, including but not limited to, all
8 authority financial assistance received by the entity pursuant to the
9 "Business Employment Incentive Program Act," P.L.1996, c.26
10 (C.34:1B-124 et al.) that enables the entity to engage in a construction
11 contract, but this section shall not be construed as requiring the
12 payment of the prevailing wage for construction commencing more
13 than two years after an entity has executed with the authority a
14 commitment letter regarding authority financial assistance and the first
15 payment or other provision of the assistance is received.

16 b. The New Jersey Economic Development Authority shall adopt
17 rules and regulations requiring that not less than the prevailing wage
18 rate be paid to workers employed in the performance of any contract,
19 for construction, demolition, remediation, removal of hazardous
20 substances, alteration, custom fabrication, repair work, or maintenance
21 work, including painting and decorating, or excavation, grading, pile
22 driving, concrete form, or other types of foundation work in
23 connection with the "New Jersey Community-Anchored Development
24 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
25 34:1B-321), the "New Jersey Aspire Program Act," sections 54
26 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
27 and the "New Jersey Emerge Program Act," sections 68 through 81 of
28 P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this
29 subsection shall apply to any site preparation work performed 24
30 months prior to and during the incentive eligibility period of any
31 project receiving tax credits under the "New Jersey Community-
32 Anchored Development Act," sections 43 through 53 of P.L.2020,
33 c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
34 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
35 322 through C.34:1B-335), and the "New Jersey Emerge Program
36 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.),
37 and to projects receiving financial assistance under the
38 "Redevelopment Project Bridge Financing Program," established
39 pursuant to section 11 of P.L. , c. (C.) (pending before the
40 Legislature as this bill), in which there is a continuity of ownership in
41 the site of the redevelopment project, including work undertaken to
42 fulfill any condition of receiving tax credits under the programs. Work
43 that is subject to the requirements of this subsection shall include the
44 performance of any contract for construction, demolition, remediation,
45 removal of hazardous substances, alteration, custom fabrication, repair
46 work, or maintenance work, including painting and decorating, or
47 excavation, grading, pile driving, concrete form, or other types of
48 foundation work undertaken on a facility for operations which are

1 necessary for the receipt of tax credits under the "New Jersey
2 Community-Anchored Development Act," sections 43 through 53 of
3 P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey
4 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
5 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge
6 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
7 336 et al.), or the receipt of financial assistance under the
8 "Redevelopment Project Bridge Financing Program," established
9 pursuant to section 11 of P.L. , c. (C.) (pending before the
10 Legislature as this bill), unless the work performed under the contract
11 is performed on a facility owned by a landlord of the entity receiving
12 the tax credit and less than 35 percent of the facility is leased by the
13 entity at the time of the contract and under any agreement to
14 subsequently lease the facility. The prevailing wage rate shall be the
15 rate determined by the Commissioner of Labor and Workforce
16 Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-
17 56.25 et seq.), and all contractors and subcontractors subject to the
18 prevailing wage requirement set forth in this section shall be registered
19 with the Department of Labor and Workforce Development pursuant
20 to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
21 applicant for tax credits under the "New Jersey Community-Anchored
22 Development Act," sections 43 through 53 of P.L.2020, c.156
23 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire Program
24 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
25 C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68
26 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under
27 penalty of perjury as part of its application that all construction
28 contracts undertaken on any project in connection with an award under
29 the programs comply with the prevailing wage requirements of this
30 subsection. If at any time the authority determines that the developer
31 made a material misrepresentation regarding compliance with the
32 provisions of this subsection on the developer's application, the
33 developer shall forfeit 35 percent of the tax credits allowed under the
34 programs, and pay to the affected workers back wages in an amount
35 that compensates the workers at the prevailing wage rate for the work
36 performed.¹

37 (cf: P.L.2020, c.156, s.112)

38

39 ¹**[16.] 17.**¹ This act shall take effect immediately.