

[Second Reprint]

ASSEMBLY, No. 2076

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Assemblyman BENJIE E. WIMBERLY

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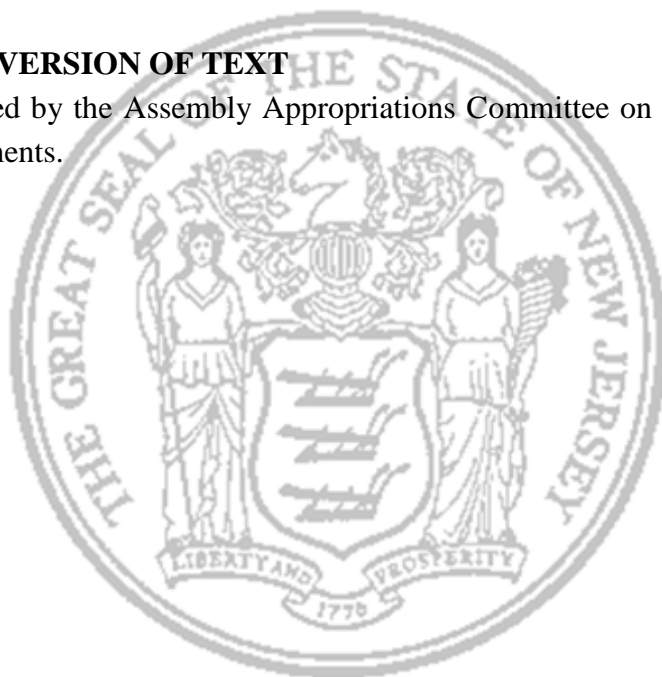
Assemblywoman Reynolds-Jackson

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 24, 2024, with amendments.



(Sponsorship Updated As Of: 6/25/2024)

A2076 [2R] PINTOR MARIN, PARK

2

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
14 seq.).

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

17 "Aviation district" means all areas within the boundaries of the
18 Atlantic City International Airport, established pursuant to section
19 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
20 Administration William J. Hughes Technical Center and the area
21 within a one-mile radius of the outermost boundary of the Atlantic
22 City International Airport and the Federal Aviation Administration
23 William J. Hughes Technical Center ², and the Trenton-Mercer
24 Airport, established pursuant to R.S.40:8-2 and the area within a
25 one-mile radius of the outermost boundary of the terminal located at
26 1100 Terminal Circle Drive, Ewing Township².

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

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

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

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:

¹Assembly ACE committee amendments adopted May 13, 2024.

²Assembly AAP committee amendments adopted June 24, 2024.

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

13 "Commercial project" means a redevelopment project, which is
14 predominantly commercial and, if located in a government-
15 restricted municipality, contains 25,000 or more square feet, or if
16 located in any other municipality, contains 50,000 or more square
17 feet of office and retail space, industrial space ²including ¹, but not
18 limited to, any industrial ¹ space ¹that is ¹ predominantly used for
19 warehouse distribution or fulfillment centers ¹and has at least \$10
20 million in environmental remediation costs ¹², or film studios,
21 professional stages, television studios, recording studios, screening
22 rooms, or other infrastructure for film production, and may include
23 a parking component. The term "commercial project" includes a
24 redevelopment project comprised solely of a health care or health
25 services center, which contains not less than 10,000 square feet
26 devoted to health care or health services, and which may include a
27 parking component.

28 "Developer" means a person who enters or proposes to enter into
29 an incentive award agreement pursuant to the provisions of section
30 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
31 a lender that completes a redevelopment project, operates a
32 redevelopment project, or completes and operates a redevelopment
33 project.

34 "Director" means the Director of the Division of Taxation in the
35 Department of the Treasury.

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

45 "Economic development incentive" means a financial incentive,
46 awarded by the authority, or agreed to between the authority and a
47 business or person, for the purpose of stimulating economic

1 development or redevelopment in New Jersey, including, but not
2 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
3 credit, or other tax expenditure.

4 "Eligibility period" means the period not to exceed 15 years for a
5 commercial or mixed-use project or the period not to exceed 10
6 years for a residential project specified in an incentive award
7 agreement during which a developer may claim a tax credit under
8 the program, as such period shall be determined by the authority
9 pursuant to subsection b. of section 60 of P.L.2020, c.156 (C.34:1B-
10 328).

11 "Enhanced area" means (1) a municipality that contains an urban
12 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
13 208); (2) the five municipalities with the highest poverty rates
14 according to the 2017 Municipal Revitalization Index; and (3) the
15 three municipalities with the highest percentage of SNAP recipients
16 according to the 2017 Municipal Revitalization Index.

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

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

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

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

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

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

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

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

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

39 "Incentive award agreement" means the contract executed
40 between a developer and the authority pursuant to section 60 of
41 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
42 conditions under which the developer may receive the incentive
43 awards authorized pursuant to the provisions of sections 54 through
44 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

45 "Incubator facility" means a commercial property, which
46 contains 5,000 or more square feet of office, laboratory, or
47 industrial space, which is located near, and presents opportunities

1 for collaboration with, a research institution, teaching hospital,
2 college, or university, and within which at least 75 percent of the
3 gross leasable area is restricted for use by one or more technology
4 startup companies.

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

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

39 "Low-income housing" means housing affordable according to
40 federal Department of Housing and Urban Development or other
41 recognized standards for home ownership and rental costs and
42 occupied or reserved for occupancy by households with a gross
43 household income equal to 50 percent or less of the median gross
44 household income for households of the same size within the
45 housing region in which the housing is located.

46 "Major cultural institution" means a public or nonprofit
47 institution, not including an institution of higher education, within

1 this State that engages in the cultural, intellectual, scientific,
2 environmental, educational, or artistic enrichment of the people of
3 this State, and which institution is designated by the board as a
4 major cultural institution.

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

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

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

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

26 "Municipal Revitalization Index" means the index by the
27 Department of Community Affairs ranking New Jersey's
28 municipalities according to eight separate indicators that measure
29 diverse aspects of social, economic, physical, and fiscal conditions
30 in each locality.

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

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

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

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

43 "Project cost" or "²**[total]** eligible² project cost" means the costs
44 incurred in connection with a redevelopment project by a developer
45 until the issuance of a permanent certificate of occupancy, or until
46 such other time specified by the authority, for a specific investment
47 or improvement, including the costs relating to lands, except the

1 cost of acquiring such lands, buildings, improvements, real or
2 personal property, or any interest therein, including leases
3 discounted to present value, including lands under water, riparian
4 rights, space rights, and air rights acquired, owned, developed or
5 redeveloped, constructed, reconstructed, rehabilitated, or improved,
6 any environmental remediation costs, plus costs not directly related
7 to construction, including capitalized interest paid to third parties,
8 of an amount not to exceed 20 percent of the total costs and the cost
9 of infrastructure improvements, including ancillary infrastructure
10 projects. When 100 percent of the residential units constructed in a
11 residential project are reserved for occupancy by low- and
12 moderate-income households, the term "project cost" shall also
13 include the developer fees paid before acquiring permanent
14 financing, as well as the deferred developer fees approved pursuant
15 to the rules established by the agency. In addition to the foregoing,
16 the term "project cost" shall include the following costs when
17 incurred by a developer for a redevelopment project located in a
18 government restricted municipality: any development,
19 redevelopment, and relocation costs, including, but not limited to,
20 land ²[and] costs, which land costs shall be capped at no more than
21 20 percent of the total project cost;² building acquisition costs;
22 ²carrying costs and interest expenses on construction loans and
23 other financing up to project completion;² any soft costs, including
24 engineering, legal, accounting, and other professional services
25 required for the completion of the project; any environmental
26 remediation costs; and any infrastructure improvement for the
27 project area, including, but not limited to, costs of on- and off-site
28 utility, road, pier, wharf, bulkhead, or sidewalk construction or
29 repair. The fees associated with the application or administration of
30 a grant under sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
31 322 through 34:1B-335) shall not constitute a project cost,
32 regardless of the location of the redevelopment project.

33 "Project financing gap" means the part of the total project cost,
34 including reasonable and appropriate return on investment, that
35 remains to be financed after all other sources of capital have been
36 accounted for, including, but not limited to developer contributed
37 capital, which shall not be less than 20 percent of the ²[total]²
38 project cost, and investor or financial entity capital or loans for
39 which the developer, after making all good faith efforts to raise
40 additional capital, certifies that additional capital cannot be raised
41 from other sources on a non-recourse basis; provided, however, that
42 for a redevelopment project located in a government-restricted
43 municipality, the developer contributed capital shall not be less than
44 10 percent of the ²[total]² project cost. Developer contributed
45 capital may consist of cash, deferred development fees, costs for
46 project feasibility incurred within the 12 months prior to
47 application, property value less any mortgages when the developer

1 owns the project site, and any other investment by the developer in
2 the project deemed acceptable by the authority, as provided by
3 regulations promulgated by the authority. Property value shall be
4 valued at the lesser of: (i) the purchase price, provided the property
5 was purchased pursuant to an arm's length transaction within 12
6 months of application; or (ii) the value as determined by a current
7 appraisal.

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

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

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

24 "Reasonable and appropriate return on investment" means the
25 discount rate at which the present value of the future cash flows of
26 an investment equals the cost of the investment. In determining the
27 "reasonable and appropriate return on investment," an investment
28 shall not include any federal, State, or local tax credits. For a
29 residential project that utilizes federal low-income housing tax
30 credits awarded by the agency, the "reasonable and appropriate
31 return on investment" shall be based on the approval of deferred
32 developer fees pursuant to the rules established by the agency. In
33 the event that a residential project, which utilizes federal low-
34 income housing tax credits awarded by the agency, generates
35 returns on equity other than federal or local grants or proceeds from
36 the sale of federal or local tax credits, the "reasonable and
37 appropriate return on investment" shall be based on both the
38 discount rate at which the present value of the future cash flows of
39 an investment equal the cost of the investment for the entire project,
40 and when evaluating only the units financed with federal low-
41 income housing tax credits awarded by the agency, the approval of
42 deferred developer fees pursuant to the rules established by the
43 agency.

44 "Redevelopment project" means a specific construction project
45 or improvement or phase of a project or improvement undertaken
46 by a developer, owner or tenant, or both, and any ancillary
47 infrastructure project. A redevelopment project may involve

1 construction or improvement upon lands, buildings, improvements,
2 or real and personal property, or any interest therein, including
3 lands under water, riparian rights, space rights, and air rights,
4 acquired, owned, developed or redeveloped, constructed,
5 reconstructed, rehabilitated, or improved.

6 "Residential project" means a redevelopment project that is
7 predominantly residential, intended for multi-family residency, and
8 may include a parking component.

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

11 "SDA municipality" means a municipality in which an SDA
12 district is situated.

13 ²"Special mission non-profit project" means a project located in
14 a government-restricted municipality or in an enhanced area that:
15 serves a special mission, as determined by the authority, to
16 accomplish the public purpose of a non-profit that is a developer of
17 or is affiliated with the project; and includes no more than 100 units
18 of 100 percent affordable housing units and no more than 10,000
19 square feet of commercial space.²

20 "Stranded asset" means any building previously used for
21 commercial, retail, office space, manufacturing, or industrial
22 purposes, which building is no longer used for such purposes, and
23 which has been abandoned, experienced significant vacancies for at
24 least two consecutive years, or has fallen into such disrepair as to be
25 untenantable. ²"Stranded asset" includes vacant land that has been
26 left fallow for at least two consecutive years because of
27 environmental contamination.

28 "Targeted industry" means any industry identified from time to
29 time by the authority, which industry shall initially include
30 advanced transportation and logistics, advanced manufacturing,
31 aviation, autonomous vehicle and zero-emission vehicle research or
32 development, clean energy, life sciences, hemp processing,
33 information and high technology, finance and insurance,
34 professional services, film and digital media, non-retail food and
35 beverage businesses including food innovation, and other
36 innovative industries that disrupt current technologies or business
37 models.²

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

1 "Total **project** ²**[development] project**² cost" ²**[or "total**
2 **redevelopment cost"]**² means the costs incurred in connection with
3 the redevelopment project by the developer until the issuance of a
4 permanent certificate of occupancy, or upon such other event
5 evidencing project completion as set forth in the incentive grant
6 agreement, for a specific investment or improvement.

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

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

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

28 "Transit Village" means a municipality that has been designated
29 as a transit village by the Commissioner of Transportation and the
30 Transit Village Task Force ²**[established pursuant to P.L.1985,**
31 **c.398 (C.27:1A-5)]**².

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

33

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

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

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

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

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

42 (4) ¹(a)¹ except for demolition and site remediation activities,
43 the developer has not commenced any construction at the site of the
44 redevelopment project prior to submitting an application, unless the
45 authority determines that the redevelopment project would not be
46 completed otherwise or, in the event the redevelopment project is to

1 be undertaken in phases, the requested incentive award is limited to
2 only phases for which construction has not yet commenced;

3 ¹(b) if the developer has commenced demolition and site
4 remediation activities at the site of the redevelopment project prior
5 to submitting an application ²that includes those demolition and site
6 remediation costs as part of the eligible project cost² , all
7 construction workers employed to undertake demolition and site
8 remediation activities at the site were paid not less than the
9 prevailing wage rate for the worker's craft or trade, as determined
10 by the Commissioner of Labor and Workforce Development
11 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
12 c.379 (C.34:11-56.58 et seq.);¹

13 (5) the redevelopment project shall comply with minimum
14 environmental and sustainability standards;

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

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

24 (b) during the eligibility period, each worker employed to
25 perform building services work at the redevelopment project,
26 whether pursuant to contract by the developer or a commercial
27 tenant, commercial subtenant, or other commercial occupant, shall
28 be paid not less than the prevailing wage rate for the worker's craft
29 or trade, as determined by the Commissioner of Labor and
30 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
31 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except
32 that this requirement shall not apply to workers employed to
33 perform building services work by **[a]** any residential tenant or any
34 commercial tenant, commercial subtenant, or other commercial
35 occupant that has a leasehold interest or other occupancy right in a
36 redevelopment project, which leasehold interest or other occupancy
37 right encompasses less than 5,000 square feet of space within the
38 project. The developer shall include in all commercial leases or
39 other commercial occupancy agreements, and shall require that all
40 subleases or other commercial occupancy agreements applicable to
41 the redevelopment project include, a provision setting forth the
42 requirements of this subparagraph, which provision shall be in a
43 form acceptable to the authority. Notwithstanding any provisions
44 of law to the contrary, if a commercial tenant, commercial
45 subtenant, or other commercial occupant violates this provision due
46 to the underpayment of the required prevailing wage rate, then the
47 issuance of tax credits to the developer and any co-applicant shall

1 be delayed until such time as documentation demonstrating
2 compliance has been provided to the Commissioner of Labor and
3 Workforce Development, subsequently reviewed and approved by
4 the Commissioner of Labor and Workforce Development, and
5 verified by the authority, which reviews and verification shall be
6 completed. If a violation is not cured, or is not capable of being
7 cured, within one year of receipt of notice of the violation, then the
8 developer and any co-applicant shall forfeit 50 percent of the tax
9 credits otherwise authorized for the tax period in which the notice
10 of violation was issued. If the violation is not cured on or before
11 the conclusion of that tax period, the developer and any co-
12 applicant shall forfeit up to 100 percent of the tax credits otherwise
13 authorized, as determined by the authority, in each subsequent tax
14 period until the first tax period for which documentation
15 demonstrating compliance has been provided to the Commissioner
16 of Labor and Workforce Development, subsequently reviewed and
17 approved by the Commissioner of Labor and Workforce
18 Development, and verified by the authority, which reviews and
19 verifications shall be completed. In this event, the developer and
20 any co-applicant shall be allowed the full tax credit amount
21 beginning in the tax period in which documentation of compliance
22 was reviewed and approved by the Commissioner of Labor and
23 Workforce Development and verified by the authority, including
24 each subsequent tax period in which the tax credits are otherwise
25 authorized;

26 (c) in the event a redevelopment project, or any portion thereof,
27 is undertaken by a tenant pursuant to a contract and the tenant has a
28 leasehold of more than 55 percent of space in the building owned or
29 controlled by the developer, the requirement that each worker
30 employed to perform building service work at the building be paid
31 not less than the prevailing wage shall apply to the entire building,
32 except as otherwise provided in subparagraph (b) of this paragraph
33 for all residential tenants and all commercial tenants, commercial
34 subtenants, or other commercial occupants with a leasehold interest
35 or other occupancy right encompassing less than 5,000 square feet;

36 (8) (a) the redevelopment project shall be completed, and the
37 developer shall be issued a certificate of occupancy for the
38 redevelopment project facilities by the applicable enforcing agency,
39 within four years of executing the incentive award agreement, or in
40 the case of a redevelopment project with a ²total² project cost in
41 excess of \$50,000,000, the incentive phase agreement
42 corresponding to the redevelopment project; or

43 (b) in the discretion of the authority, a redevelopment project
44 with a ²total² project cost in excess of \$50,000,000, and that is
45 authorized to be completed in phases, may be allowed no more than
46 six years from the date on which the incentive award agreement is

- 1 executed to be issued a certificate of occupancy by the applicable
2 enforcement agency;
- 3 (9) the developer has complied with all requirements for filing
4 tax and information returns and for paying or remitting required
5 State taxes and fees by submitting, as a part of the application, a tax
6 clearance certificate, as described in section 1 of P.L.2007, c.101
7 (C.54:50-39); and
- 8 (10) the developer is not more than 24 months in arrears at the
9 time of application.
- 10 b. In addition to the requirements set forth in subsection a. of
11 this section, for a commercial project to qualify for an incentive
12 award the developer shall demonstrate that the developer shall
13 contribute capital of at least 20 percent of the ²**[total]**² project cost,
14 except that if a redevelopment project is located in a government-
15 restricted municipality, the developer shall contribute capital of at
16 least 10 percent of the ²**[total]**² project cost.
- 17 c. In addition to the requirements set forth in subsection a. of
18 this section, for a residential project or a commercial project
19 comprised solely of a health care or health service center to qualify
20 for an incentive award, the residential project or health care or
21 health service center shall:
- 22 (1) have a total project cost of at least \$17,500,000, if the project
23 is located in a municipality with a population greater than 200,000
24 according to the latest federal decennial census;
- 25 (2) have a total project cost of at least \$10,000,000 if the project
26 is located in a municipality with a population less than 200,000
27 according to the latest federal decennial census; or
- 28 (3) have a total project cost of at least \$5,000,000 if the project is
29 in a qualified incentive tract or government-restricted municipality.
- 30 d. In addition to the requirements set forth in subsections a. and
31 c. of this section, for a residential project consisting of newly-
32 constructed residential units to qualify for an incentive award, the
33 developer shall reserve at least 20 percent of the residential units
34 constructed for occupancy by low- and moderate-income
35 households with affordability controls as adopted by the authority,
36 in consultation with the agency, in accordance with paragraph (2) of
37 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324),
38 except that a residential project receiving a federal historic
39 rehabilitation tax credit pursuant to section 47 of the federal
40 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
41 pursuant to the "Historic Property Reinvestment Act," sections 2
42 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
43 shall be exempt from the affordability controls related to bedroom
44 distribution.
- 45 e. Prior to the board considering an application submitted by a
46 developer, the authority shall confirm with the Department of Labor
47 and Workforce Development, the Department of Environmental

1 Protection, and the Department of the Treasury whether the
2 developer is in substantial good standing with the respective
3 department, or has entered into an agreement with the respective
4 department that includes a practical corrective action plan for the
5 developer. The developer shall certify that any contractors or
6 subcontractors that will perform work at the redevelopment project:
7 (1) are registered as required by "The Public Works Contractor
8 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
9 not been debarred by the Department of Labor and Workforce
10 Development from engaging in or bidding on Public Works
11 Contracts in the State; and (3) possess a tax clearance certificate
12 issued by the Division of Taxation in the Department of the
13 Treasury. The authority may also contract with an independent
14 third party to perform a background check on the developer.

15 f. Beginning ²[on] after² the third year following the date of
16 issuance of a final certificate of occupancy for a commercial
17 project, and through the conclusion of the eligibility period, if the
18 average occupancy rate of the commercial project is less than 60
19 percent during any applicable tax period, the developer and co-
20 applicant shall forfeit all credits otherwise allowed for the tax
21 period and for each subsequent tax period until the authority
22 verifies documentation, submitted by the developer or co-applicant,
23 demonstrating that the average occupancy rate has reached or
24 surpassed 60 percent for the tax period. The full amount of credit
25 shall be allowed to a developer and any co-applicant for the tax
26 period in which the average occupancy rate reaches or surpasses 60
27 percent. Occupancy for the tax period shall be determined by the
28 average of the monthly occupancy for the applicable tax period.
29 The occupancy requirement in this subsection shall not apply to
30 residential projects.

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

32

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

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

41 (2) For a phased project, the incentive phase agreement shall set
42 forth, for each phase of the project and for the total project, the
43 capital investment requirements and the time periods in which each
44 phase of the project shall be commenced and completed. The
45 awarding of tax credits shall be conditioned on the developer's
46 compliance with the requirements of the agreement. A
47 redevelopment project may be completed in phases in accordance

1 with rules adopted by the authority if the redevelopment project has
2 a total project cost in excess of \$50,000,000.

3 b. An incentive award agreement shall specify the amount of
4 the incentive award the authority shall award to the developer and
5 the duration of the eligibility period. The duration of the eligibility
6 period ~~shall not exceed 15 years for a commercial or mixed-use~~
7 ~~project and~~ shall not exceed 10 years for a commercial project,
8 mixed-use project, or residential project, except that ~~to~~ the
9 authority shall ²~~consider reducing~~ reduce² the eligibility period if
10 a shorter period would reduce the total value of tax credits needed
11 to reimburse a developer for all or part of the project financing gap
12 of a redevelopment project, ~~the authority may, in its discretion,~~
13 ~~approve a duration for the eligibility period that is shorter than the~~
14 ~~applicable maximum periods~~ enhance access to tax credit
15 monetization on cost effective terms, or otherwise enhance the
16 effectiveness of the program. The incentive award agreement shall
17 provide an estimated date of completion and include a requirement
18 for periodic progress reports, including the submittal of executed
19 financing commitments and documents that evidence site control;
20 provided however, that the developer may sell one or more
21 buildings during the eligibility period, provided that such sale is: an
22 arms-length transaction to an unrelated party, or for an amount at
23 least equal to fair market value based on an appraisal conducted
24 within one year; and subject to the purchaser's assumption of all
25 obligations relating to the buildings pursuant to sections 54 through
26 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335). If the
27 authority does not receive periodic progress reports, or if the
28 progress reports demonstrate unsatisfactory progress, then the
29 authority may rescind the incentive award. If the authority rescinds
30 an incentive award in the same calendar year in which the authority
31 approved the incentive award, then the authority may assign the
32 incentive award to another applicant. The incentive award
33 agreement may also provide for a verification of the financing gap
34 at the time the developer provides executed financing commitments
35 to the authority and a verification of the developer's projected cash
36 flow at the time of certification that the project is completed.

37 c. To ensure the protection of taxpayer money, if the authority
38 determines at project certification that the actual capital financing
39 approach utilized by the project has resulted in a financing gap that
40 is smaller than the financing gap determined at board approval, the
41 authority shall reduce the amount of the tax credit or accept
42 payment from the developer on a pro rata basis. If there is no
43 project financing gap due to the actual capital financing approach
44 utilized by the project, then the developer shall forfeit the incentive
45 award. At the end of the seventh year of the eligibility period, the
46 authority shall evaluate the developer's rate of return on investment
47 and compare that rate of return on investment to the reasonable and

1 appropriate rate of return at the time of board approval. If the
2 actual rate of return on investment exceeds the reasonable and
3 appropriate rate of return on investment at the time of board
4 approval by more than 15 percent, the authority shall require the
5 developer to pay up to 20 percent of the amount in excess of the
6 reasonable and appropriate rate of return on investment. The
7 authority shall require an escrow account to be held by the authority
8 until the end of the eligibility period. Following the final year of
9 the eligibility period, the authority shall determine if the developer's
10 rate of return exceeded the reasonable and appropriate rate of return
11 determined at board approval. If the final rate of return does not
12 exceed the reasonable and appropriate rate of return determined at
13 board approval, the authority shall release to the developer the
14 escrowed funds. If the project final rate of return exceeds the
15 reasonable and appropriate rate of return determined at board
16 approval, the authority shall require the developer to pay up to 20
17 percent of the amount of the excess, which shall include the funds
18 held in escrow, and such funds shall be deposited in the State
19 General Fund.

20 d. The incentive award agreement shall include a requirement
21 that the authority confirm with the Department of Environmental
22 Protection, the Department of Labor and Workforce Development,
23 and the Department of the Treasury that the developer is in
24 substantial good standing with the respective department, or the
25 developer has entered into an agreement with the respective
26 department that includes a practical corrective action for the
27 developer, and the developer shall confirm that each contractor or
28 subcontractor performing work at the redevelopment project: (1) is
29 registered as required by "The Public Works Contractor
30 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
31 not been debarred ¹, suspended, or disqualified¹ by the Department
32 of Labor and Workforce Development from engaging in or bidding
33 on Public Works Contracts in the State ¹, or been debarred,
34 suspended, or disqualified by a federal agency from engaging in
35 federally-funded construction projects or bidding on federal
36 contracting opportunities¹; and (3) possesses a tax clearance
37 certificate issued by the Division of Taxation in the Department of
38 the Treasury. The incentive award agreement shall also include a
39 provision that the developer shall forfeit the incentive award in any
40 year in which the developer is neither in substantial good standing
41 with each department nor has entered into a practical corrective
42 action. The incentive award agreement shall also require a
43 developer to engage in on-site consultations with the Division of
44 Workplace Safety and Health in the Department of Health.

45 e. (1) Except as provided in paragraph (2) of this subsection,
46 the authority shall not enter into an incentive award agreement for a
47 redevelopment project that includes at least one retail establishment

1 which will have more than 10 employees, at least one distribution
2 center which will have more than 20 employees, or at least one
3 hospitality establishment which will have more than 10 employees,
4 unless the incentive award agreement includes a precondition that
5 any business that serves as the owner or operator of the retail
6 establishment, distribution center, or hospitality establishment
7 enters into a labor harmony agreement with a labor organization or
8 cooperating labor organizations which represent retail
9 establishment, hospitality establishment, or distribution center
10 employees in the State.

11 (2) A labor harmony agreement shall be required only if the
12 State has a proprietary interest in the redevelopment project and
13 shall remain in effect for as long as the State acts as a market
14 participant in the redevelopment project. The authority may enter
15 into an incentive award agreement with a developer without the
16 labor harmony agreement required under paragraph (1) of this
17 subsection if the authority determines that the redevelopment
18 project would not be able to go forward if a labor harmony
19 agreement is required. The authority shall support the
20 determination by a written finding, which provides the specific
21 basis for the determination.

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

23 f. (1) Except for a residential project that is located in a
24 government-restricted municipality, and in which 100 percent of the
25 residential units constructed in the residential project are reserved
26 for occupancy by low- and moderate-income households, for a
27 redevelopment project whose ²**[total]**² project cost equals or
28 exceeds \$10 million, in addition to the incentive award agreement, a
29 developer shall enter into a community benefits agreement with the
30 authority and the county or municipality in which the
31 redevelopment project is located. The agreement may include, but
32 shall not be limited to, requirements for training, employment, and
33 youth development and free services to underserved communities in
34 and around the community in which the redevelopment project is
35 located. Prior to entering a community benefits agreement, the
36 governing body of the county or municipality in which the
37 redevelopment project is located shall hold at least one public
38 hearing at which the governing body shall hear testimony from
39 residents, community groups, and other stakeholders on the needs
40 of the community that the agreement should address.

41 (2) The community benefits agreement shall provide for the
42 creation of a community advisory committee to oversee the
43 implementation of the agreement, monitor successes, ensure
44 compliance with the terms of the agreement, and produce an annual
45 public report. The community advisory committee created pursuant
46 to this paragraph shall be comprised of representatives of diverse

1 community groups and residents of the county or municipality in
2 which the redevelopment project is located.

3 (3) At the time the developer submits the annual report required
4 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
5 authority, the developer shall certify, under the penalty of perjury,
6 that it is in compliance with the terms of the community benefits
7 agreement. If the developer fails to provide the certification
8 required pursuant to this paragraph or the authority determines that
9 the developer is not in compliance with the terms of the community
10 benefits agreement based on the reports submitted by the
11 community advisory committee pursuant to paragraph (2) of this
12 subsection, then the authority may rescind an award or recapture all
13 or part of any tax credits awarded.

14 (4) Notwithstanding any requirement of this subsection to the
15 contrary, ²because all redevelopment agreements require a
16 certificate of completion issued by the municipality to confirm the
17 developer's compliance with the redevelopment agreement,² a
18 developer shall be considered to have met the requirements of a
19 community benefits agreement **[pursuant to this subsection], and**
20 **the requirements of paragraphs (2) and (3) of this subsection shall**
21 **not apply,** if the developer submits to the authority:

22 (a) a copy of either the developer's approval letter from the
23 authority or a redevelopment agreement applicable to the qualified
24 business facility, provided that the approval letter is certified by the
25 municipality or the redevelopment agreement is [certified] adopted
26 by resolution at a public meeting by the municipality in which the
27 redevelopment project is located, and includes provisions that meet
28 **[or exceed] the [standards] community benefit required [for]**
29 **under** a community benefits agreement ²**[in] pursuant to²** this
30 subsection **[, as determined by the chief executive officer pursuant**
31 **to rules adopted by the authority];** or

32 (b) a resolution adopted by the governing body of the
33 municipality in which the redevelopment project is located, which
34 resolution shall be adopted after at least one public hearing at which
35 the governing body provides an opportunity for residents,
36 community groups, and other stakeholders to testify, and which
37 resolution shall state that the governing body has determined that
38 the redevelopment project will provide economic and social benefits
39 to the community that fulfill the purposes of this subsection, which
40 benefits render a separate community benefit agreement
41 unnecessary, and explain the reasons supporting the governing
42 body's determination.

43 g. A developer shall submit, prior to the first disbursement of
44 tax credits under the incentive award agreement, but no later than
45 six months following project completion, satisfactory evidence of
46 actual project costs, as certified by a certified public accountant,

1 evidence of a temporary certificate of occupancy, or other event
2 evidencing project completion that begins the eligibility period
3 indicated in the incentive award agreement. The developer, or an
4 authorized agent of the developer, shall certify that the information
5 provided pursuant to this subsection is true under the penalty of
6 perjury. Claims, records, or statements submitted by a developer to
7 the authority in order to receive tax credits shall not be considered
8 claims, records, or statements made in connection with State tax
9 laws.

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

13 i. The incentive award agreement shall include one or more
14 provisions, as determined by the authority, concerning the terms
15 and conditions for default and the remedies for the developer of a
16 redevelopment project in the event of default. The incentive award
17 agreement shall not allow the authority to declare a cross-default
18 when the developer of a redevelopment project, including any
19 business affiliate of the developer or any other entity with common
20 principals as the developer, is in default with any other assistance
21 program administered by the authority.

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

23

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

26 61. a. Up to the limits established in subsection b. of this section
27 and in accordance with an incentive award agreement, beginning
28 upon the receipt of occupancy permits for any portion of the
29 redevelopment project, or upon any other event evidencing project
30 completion as set forth in the incentive award agreement, a
31 developer shall be allowed a total tax credit **【that shall not exceed】**
32 as follows, subject to the enhancements set forth in subsection c. of
33 this section:

34 (1) 80 percent of the ²**【total】 eligible²** project cost for a
35 redevelopment project that is located in a government-restricted
36 municipality ²or is a special mission non-profit project²;

37 (2) 60 percent of the ²**【total】 eligible²** project cost for a
38 residential project that receives a four-percent allocation from the
39 federal Low Income Housing Tax Credit Program administered by
40 the agency ^{1,1} or a redevelopment project that is located in a
41 qualified incentive tract, enhanced area, or a municipality with a
42 Municipal Revitalization Index score of at least 50; or

43 (3) 50 percent of the ²**【total】 eligible²** project cost for any other
44 redevelopment project.

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

1 (1) \$120,000,000 per redevelopment project or phase for a
2 redevelopment project that is located in a government-restricted
3 municipality ²or is a special mission non-profit project²;

4 (2) \$90,000,000 per redevelopment project or phase for a
5 redevelopment project that is allowed a tax credit under paragraph
6 (2) of subsection a. of this section; and

7 (3) \$60,000,000 for any other redevelopment project or phase.

8 c. Notwithstanding the limitations set forth in subsection a. of
9 this section, but subject to the limitations of subsections b. and d. of
10 this section and the demonstration of a financing gap, a developer
11 shall be eligible for each of the following enhancements to the total
12 tax credit award:

13 (1) for a redevelopment project that includes the redevelopment
14 of a stranded asset, an enhancement of up to 10 percent of the
15 project cost of the redevelopment project;

16 (2) for a residential project that meets the three-bedroom
17 distribution requirement under the Uniform Housing Affordability
18 Controls, an enhancement of up to five percent of the project cost of
19 the residential project; and

20 (3) for a redevelopment project that meets local first source
21 hiring requirements for residents in the municipality or county
22 '[where] in which' the project is located 'and in surrounding
23 municipalities, as appropriate' , an enhancement of up to three
24 percent of the project cost of the redevelopment project.

25 d. Except for a redevelopment project that is located in a
26 government restricted municipality:

27 (1) the total tax credits awarded for the redevelopment project,
28 together with all tax credits awarded under any other program
29 administered by the authority, shall not exceed 80 percent of the
30 project cost of the redevelopment project; and

31 (2) for a redevelopment project that receives tax credits under
32 the Federal Low-Income Housing Tax Credit Program, the total tax
33 credits awarded for the redevelopment project, together with all tax
34 credits awarded under any other program administered by the
35 authority and under the Federal Low-Income Housing Tax Credit
36 Program, shall not exceed 90 percent of the project cost.

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

38
39 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
40 read as follows:

41 62. a. A developer approved for an incentive award pursuant to
42 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
43 C.34:1B-327) and that enters an incentive award agreement
44 pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328) shall
45 submit annually, commencing in the year in which the incentive
46 award is issued and for the remainder of the eligibility period, a
47 report indicating whether the developer is aware of any condition,

1 event, or act that would cause the developer not to be in compliance
2 with the incentive award agreement or the provisions of sections 54
3 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335)
4 and any additional reporting requirements contained in the incentive
5 award agreement or tax credit certificate. The developer, or an
6 authorized agent of the developer, shall certify that the information
7 provided pursuant to this subsection is true under the penalty of
8 perjury.

9 b. (1) Upon receipt and review of each report submitted during
10 the eligibility period, the authority shall provide to the developer
11 and the director a certificate of compliance indicating the amount of
12 tax credits that the developer may apply against the developer's tax
13 liability. ²The authority shall preliminarily determine whether the
14 annual report submitted by the developer is complete as early as
15 practicable after accepting each annual report. Within 90 days after
16 the authority preliminarily determines that an annual report is
17 complete, the authority shall either: (a) approve the annual report
18 and notify the director that the authority has approved the report
19 and that the director is to issue the tax credit certificate; or (b)
20 request more information from the developer to finalize the
21 approval. If the authority fails to act within 90 days from its
22 preliminary determination that the annual report is complete, the
23 annual report shall be deemed approved by the authority, and the
24 developer shall be entitled to receive its tax credit certificate.²

25 (2) Upon receipt by the director of the certificate of compliance,
26 the director shall allow the developer a credit against the tax
27 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
28 developer shall apply the credit awarded against the developer's
29 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
30 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
31 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 ²**【for the**
32 **privilege period 【during】 identified in the tax credit certificate**
33 **which the director 【allows】 issues to the developer 【a tax credit】**
34 **pursuant to this subsection, or within the three successive tax**
35 **periods immediately following the tax period in which the tax credit**
36 **certificate is received by the developer】 in the tax period for which**
37 **it was issued, in the tax period in which it was issued, or in any**
38 **successive tax period, as authorized pursuant to this subsection,**
39 **without the need to amend the tax return for the tax period for**
40 **which the credit was issued, subject to the carry-forward provision**
41 **in this section. Notwithstanding the foregoing, no more than the**
42 **amount of tax credits equal to the total credit amount divided by the**
43 **duration of the tax credit term, in years, may be taken in any tax**
44 **period**². A developer may carry forward an unused credit resulting
45 from the limitations of paragraph (3) of this subsection, if
46 necessary, for use in the seven privilege periods next following the

1 privilege period for which the credits are **【awarded】** applied.
2 Credits granted to a partnership shall be passed through to the
3 partners, members, or owners, respectively, pro-rata, or pursuant to
4 an executed agreement among the partners, members, or owners
5 documenting an alternate distribution method provided to the
6 director accompanied by any additional information as the director
7 may prescribe.

8 (3) The director shall prescribe the order of priority of the
9 application of the credit allowed under this section and any other
10 credits allowed by law against the tax imposed under section 5 of
11 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
12 under this section against the tax imposed pursuant to section 5 of
13 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
14 any other credits allowed by law, shall not reduce the tax liability to
15 an amount less than the statutory minimum provided in subsection
16 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

17 (cf: P.L.2022, c.46, s.1)

18
19 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
20 read as follows:

21 63. a. ²(1)² A developer may apply to the director and the chief
22 executive officer of the authority for a tax credit transfer certificate,
23 covering one or more years, in lieu of the developer being allowed
24 any amount of the credit against the tax liability of the developer.
25 ²The authority shall preliminarily determine whether the application
26 submitted by the developer is complete as early as practicable after
27 accepting the application. Within 90 days after the authority
28 preliminarily determines that an application is complete, the
29 authority shall either: (a) approve the application and notify the
30 director that the authority has approved the application and that the
31 director is to issue the tax credit transfer certificate; or (b) request
32 more information from the developer to finalize the approval. If the
33 authority fails to act within 90 days from its preliminary
34 determination that the application is complete, the application shall
35 be deemed approved by the authority, and the developer shall be
36 entitled to receive its tax credit transfer certificate.

37 (2)² The tax credit transfer certificate, upon receipt thereof by
38 the developer from the director and the chief executive officer of
39 the authority, may be sold or assigned, in full or in part in an
40 amount not less than \$25,000, in the privilege period during which
41 the developer receives the tax credit transfer certificate from the
42 director, to another person, who may apply the credit against a tax
43 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
44 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
45 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
46 certificate provided to the developer shall include a statement
47 waiving the developer's right to claim the amount of the credit that

1 the developer has elected to sell or assign against the developer's
2 tax liability.

3 b. The developer shall not sell or assign, including a collateral
4 assignment, a tax credit transfer certificate allowed under this
5 section for consideration received by the developer of less than 85
6 percent of the transferred credit amount before considering any
7 further discounting to present value which shall be permitted,
8 except a developer of a residential project consisting of newly-
9 constructed residential units may assign a tax credit transfer
10 certificate for consideration of less than 85 percent subject to the
11 submission of a plan to the authority and the agency to use the
12 proceeds derived from the assignment of tax credits to complete the
13 residential project, except a developer of a residential project
14 consisting of newly-constructed residential units that has received
15 federal low income housing tax credits under 26 U.S.C.
16 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
17 consideration of no less than 65 percent subject to the submission of
18 a plan to the authority and the New Jersey Housing and Mortgage
19 Finance Agency to use the proceeds derived from the assignment of
20 tax credits to complete the residential project. The tax credit
21 transfer certificate issued to a developer by the director shall be
22 subject to any limitations and conditions imposed on the application
23 of State tax credits pursuant to sections 54 through 67 of P.L.2020,
24 c.156 (C.34:1B-322 through 34:1B-335) and any other terms and
25 conditions that the director may prescribe; provided, however, that
26 the holder of a tax credit certificate may transfer all or part of the
27 tax credit amount, ²within the three successive tax periods
28 immediately following the tax period in which the tax credit
29 certificate is received by the developer] at any time after the date of
30 receipt of the tax credit certificate², on or after the date of issuance
31 of the tax credit transfer certificate, for use by the transferee in the
32 tax period for which it was issued ²or within the three successive
33 tax periods immediately following the tax period in which the tax
34 credit transfer certificate is received by the transferee, and the
35 transferee may carry forward all or part of the tax credit amount in
36 any of the next five successive tax periods after the tax period for
37 which it was used] , in the tax period in which it was issued, or in
38 any successive tax period, as authorized in this subsection, without
39 the need to amend the tax return for the tax period for which the
40 credit was issued, subject to the carry-forward provision in this
41 section. A transferee may carry forward an unused credit for use in
42 any of the next five successive tax periods, and the unused credit
43 shall expire thereafter². Notwithstanding any provision of this
44 section to the contrary, the amount of tax credits that may be
45 claimed by the transferee in any tax period shall not exceed the total
46 tax credit amount divided by the duration of the eligibility period in
47 years.

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

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

- 7 (1) the name of the transferor;
8 (2) the name of the transferee;
9 (3) the value of the tax credit transfer certificate; and
10 (4) the consideration received by the transferor.

11 ²[e. When a tax credit certificate is issued to a developer after
12 the tax period in which all or part of the tax credits may be used by
13 the developer or a holder of the credit transfer certificate, the
14 developer or transferee shall be allowed to use the tax credit for the
15 same tax period specified in the tax credit certificate, or within the
16 three successive tax periods immediately following the tax period in
17 which the certificate is received by the developer or transferee. In
18 this circumstance, the developer or transferee shall not be required
19 to amend its tax return for the tax period in which it applies the tax
20 credit or for a tax period preceding the tax period in which the tax
21 credit is applied.]²

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

23

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

26 65. a. As used in this section, "transformative project" means a
27 redevelopment project: that has a project financing gap; that has a
28 total project cost of at least \$150,000,000; that ²[, subject to the
29 provisions of subsection h. of this section,]² includes 200,000 or
30 more square feet of new or substantially renovated industrial,
31 commercial, or residential space for a project located in a
32 government-restricted municipality, that includes 250,000 or more
33 square feet of film studios, professional stages, television studios,
34 recording studios, screening rooms, or other infrastructure for film
35 production, that includes 300,000 or more square feet of new or
36 substantially renovated industrial, commercial, or residential space
37 for a project located in an enhanced area, or that includes 500,000
38 or more square feet of new or substantially renovated industrial,
39 commercial, or residential space for any other project; and, for a
40 commercial project, that is of special economic importance as
41 measured by the level of new jobs, new capital investment,
42 opportunities to leverage leadership in a high-priority targeted
43 industry, or other state priorities as determined by the authority
44 pursuant to rules and regulations promulgated to implement this
45 section. Notwithstanding the provisions of subsection b. of section
46 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for
47 applications submitted on and after the effective date of P.L.2023,

1 c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located
2 entirely on land designated by the Department of Environmental
3 Protection as a brownfield development area pursuant to section 7
4 of P.L.2005, c.223 (C.58:10B-25.1), and the ²total² project cost of
5 the redevelopment project includes at least \$15,000,000 in
6 environmental remediation costs, the redevelopment project shall
7 constitute a project of special economic importance. A
8 transformative project may be completed in phases, which phases
9 may be determined by the authority based on factors such as written
10 architectural plans and specifications completed before or during
11 the physical work, certificates of occupancy, or financial and
12 operational plans. The criteria developed by the authority shall
13 include, but shall not be limited to:

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

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

19 (b) for a residential project containing ~~less~~ fewer than 700
20 new residential units, the construction of 200 or more new
21 residential units if the project is located in a government-restricted
22 municipality, 300 or more ²new² residential units if the project is
23 located in an enhanced area, or 400 or more ²new² residential units
24 for all other mixed-use projects; ¹or¹

25 (c) for a residential project ²containing² , not located in a
26 government-restricted municipality or an enhanced area, that
27 contains² less fewer than 700 new residential units, the
28 construction of 50,000 20,000 square feet or more of commercial
29 space, which commercial space may include retail space; and

30 (d) for a residential project, 20 percent of the new residential
31 units shall be constructed for occupancy by low- and moderate-
32 income households with affordability controls as adopted by the
33 authority, in consultation with the agency, in accordance with
34 paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
35 (C.34:1B-324), except that a residential project receiving a federal
36 historic rehabilitation tax credit pursuant to section 47 of the federal
37 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
38 pursuant to the "Historic Property Reinvestment Act," sections 2
39 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
40 shall be exempt from the affordability controls related to bedroom
41 distribution; and

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

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

4 b. (1) The authority may award incentive awards to
5 transformative projects in accordance with the provisions of
6 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through
7 34:1B-335).

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

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

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

30 (4) Notwithstanding the provisions of sections 55 and 60 of
31 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
32 section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each
33 phase of a transformative project completed in phases shall have a
34 separate eligibility period. After completing each phase, the
35 developer shall submit a certification that the phase is completed.
36 If the authority approves the certification, the tax credit allowed to
37 the developer shall be increased by the tax credit amount
38 corresponding to that phase. Notwithstanding the different
39 eligibility periods for each phase, all conditions and requirements
40 applicable during an eligibility period pursuant to sections 55
41 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335)
42 shall apply to ²**[the entire]** each phase of a² transformative project
43 until the end of the eligibility period ²**[for the last]** of each
44 completed² phase.

45 (5) Notwithstanding the provisions of section 60 of P.L.2020,
46 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
47 (C.34:1B-269 et al.) to the contrary, for a transformative project

1 completed in phases, a review of the project financing gap shall be
2 performed at the certification of completion of each phase, and the
3 authority shall re-evaluate the developer's rate of return in the
4 seventh year and at the end of the eligibility period for the last
5 phase, provided that the authority may also re-evaluate the
6 developer's rate of return during the fifth year of any earlier phase.

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

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

1 credits is being sought. Projects that are predominantly residential
2 shall be excluded from the calculation of the net benefit test
3 required pursuant to this subsection.

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

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

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

32 g. Notwithstanding the limitation on incentive awards set forth
33 in 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
36 amount not to exceed the lesser of:

37 (1) (a) 80 percent of the ²**total** eligible² project cost for a
38 transformative project that is located in a government-restricted
39 municipality;

40 (b) 60 percent of the ²**total** eligible² project cost for a
41 residential transformative project that receives a four-percent
42 allocation from the federal Low Income Housing Tax Credit
43 Program administered by the agency or a transformative project that
44 is located in a qualified incentive tract, enhanced area, or a
45 municipality with a Municipal Revitalization Index score of at least
46 50; or

1 (c) 50 percent of the ²~~total~~ eligible² project cost for any other
2 transformative project;

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

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

8 h. ¹Notwithstanding the limitations set forth in subsection g. of
9 this
10 section, a developer of a transformative project shall be eligible for
11 each of the following enhancements to the total tax credit award ²,
12 individually or in combination, subject to the demonstration of a
13 financing gap and need for support² :

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

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

21 (3) for a transformative project that meets local first source
22 hiring requirements for residents in the municipality or county in
23 which the project is located and in surrounding municipalities, as
24 appropriate, an enhancement of up to three percent of the project
25 cost of the transformative project.

26 ²[i. ¹ (1) The parking component of a transformative project
27 shall be included in the calculation of the total square footage of the
28 project, provided that the parking component shall be constructed in
29 conformity with local zoning, planning, or similar requirements
30 ¹[and] , or¹ up to the amount required by the Residential Site
31 Improvement Standards ¹, regardless of whether the Residential Site
32 Improvement Standards apply to the parking component¹ . Any
33 portion of the parking component that exceeds the local parking
34 requirements or the Residential Site Improvement Standards shall
35 not be included in the calculation of the total square footage of the
36 project.

37 (2) Notwithstanding any provision of paragraph (1) of this
38 subsection to the contrary, the entire parking component of a
39 project located in a government restricted municipality shall be
40 included in the calculation of the total square footage of the
41 project.]²

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

43

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

1 14. a. (1) Except as otherwise provided in subsection b. of this
 2 section, all program applications **【completed after】** submitted to² or
 3 approved by² the authority² **【on or】² after² **【the date six months****
 4 prior to the effective date of **【P.L.2023, c.98 (C.34:1B-335.1 et**
 5 al.)】 P.L. , c. (C.) (pending before the Legislature as this
 6 bill)】 January 1, 2023² shall be subject to the "New Jersey Aspire
 7 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
 8 322 through 34:1B-335), as amended as supplemented by P.L.2023,
 9 c.98 (C.34:1B-335.1 et al.), and as further amended and
 10 supplemented by P.L. , c. (C.) (pending before the
 11 Legislature as this bill), including the rules and regulations adopted
 12 pursuant to subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-
 13 335), except that applications submitted to the authority prior to the
 14 effective date of P.L. , c. (C.) (pending before the
 15 Legislature as this bill) shall be subject to the rules and regulations
 16 concerning application fees that were in effect immediately before
 17 the effective date of P.L. , c. (C.) (pending before the
 18 Legislature as this bill).

19 (2) **【**Except as otherwise provided in subsection b. of this
 20 section, all program applications completed on or before the
 21 effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be
 22 subject to the provisions of the "New Jersey Aspire Program Act,"
 23 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
 24 34:1B-335), as such provisions remained in effect immediately
 25 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
 26 including the rules and regulations adopted pursuant to subsection
 27 a. of section 67 of P.L.2020, c.156 (C.34:1B-335).**】** (Deleted by
 28 amendment, P.L. , c. (pending before the Legislature as this bill)

29 b. Notwithstanding any provision of P.L.2020, c.156
 30 (C.34:1B-269 et al.) to the contrary, if a completed application for a
 31 residential project is submitted to the authority on or before the
 32 121st calendar day next following effective date of P.L.2023, c.98
 33 (C.34:1B-335.1 et al.), the applicant for the residential project has
 34 received all applicable approvals pursuant to the "Municipal Land
 35 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the
 36 121st calendar day next following the effective date of P.L.2023,
 37 c.98 (C.34:1B-335.1 et al.), and the applicant submits written notice
 38 to the authority, before the authority's approval or denial of the
 39 application, electing for the application to be governed under the
 40 provisions of this subsection, then the residential units constructed
 41 for occupancy by low- and moderate-income households within the
 42 residential project shall not be subject to the affordability controls
 43 adopted by the authority, in consultation with the agency, pursuant
 44 to paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
 45 (C.34:1B-324) and subsection b. of section 67 of P.L.2020, c.156
 46 (C.34:1B-335). In this event, the application for the residential

1 project shall be reviewed, approved, and administered in accordance
2 with the provisions of the "New Jersey Aspire Program Act,"
3 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
4 34:1B-335), as such provisions remained in effect immediately
5 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
6 including the rules and regulations adopted pursuant to subsection
7 a. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
8 application shall be subject to:

9 (1) the determination of a reasonable and appropriate return on
10 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-
11 323), as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.); ²**[and]**²

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

16 (3) no proration of the tax credit for any year within the
17 eligibility period².

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

19

20 10. (New section) The authority shall promulgate a schedule of
21 application and other fees imposed under the program, which fees
22 shall be limited to the coverage of actual direct costs of
23 administering the program, the coverage of reasonable indirect costs
24 of administering the program, and the maintenance of reasonable
25 reserves for administering the program. Any application fee or
26 other fee charged by the authority shall be proportional to the tax
27 credit amount awarded for a redevelopment project under the
28 program.

29

30 11. (New section) a. The authority shall establish, as part of the
31 program, a "Redevelopment Project Bridge Financing Program" to
32 facilitate the ability of a developer to secure financing for a
33 redevelopment project until such time as tax credits are issued
34 pursuant to the "New Jersey Aspire Program Act," sections 54 through
35 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as
36 amended as supplemented. Through the program, the authority shall
37 provide full or partial loans or loan guarantees, at the authority's
38 discretion, to the developers of redevelopment projects for the purpose
39 of ensuring the completion of the redevelopment projects. As
40 determined by the authority, the Redevelopment Project Bridge
41 Financing Program may consist of:

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

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

46 b. (1) The authority may issue a redevelopment project bridge
47 financing loan to the developer of an approved redevelopment project,

1 upon application by the developer, provided that the authority
2 determines that:

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

5 (b) the redevelopment project bridge financing loan will enable the
6 completion of the redevelopment project.

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

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

11 (b) a proposed repayment schedule;

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

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

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

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

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

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

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

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

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

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

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

44 d. (1) The authority shall establish a Redevelopment Project
45 Bridge Financing Revolving Fund from which the authority shall
46 provide all loans issued pursuant to subsection b. of this section and
47 provide all loan guarantees issued pursuant to subsection c. of this

1 section. All monies received from payments of the principle and
2 interest for loans issued pursuant to this section shall be deposited into
3 the Redevelopment Project Bridge Financing Revolving Fund, which
4 fund shall remain until the authority determines that there no longer
5 remains a need for bridge financing or until December 31, 2028,
6 whichever occurs first. After the fund is no longer needed, or upon its
7 expiration, all monies in the fund shall be deposited into the General
8 Fund.

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

15
16 12. (New section) a. To facilitate the efficient monetization of
17 tax credits awarded under the program, the Department of the
18 Treasury shall ²[, at such times as the department deems
19 necessary,]² redeem the tax credits ²[awarded to] surrendered for
20 redemption by² a developer for a redevelopment project at a
21 discount from face value. ²[The tax credit redemptions shall be
22 made at such discounts as the State Treasurer deems appropriate,
23 except that the discount shall not exceed 10 percent of the face
24 value of the tax credits.]²

25 b. ²To effectuate a redemption authorized pursuant to this
26 section, in lieu of applying any tax credit certificate or tax credit
27 transfer certificate against tax liability otherwise due pursuant to
28 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
29 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
30 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, a taxpayer may
31 surrender a tax credit certificate or tax credit transfer certificate for
32 redemption to the director for a cash payment equal to 90 percent of
33 the amount of tax credits evidenced by the certificate, provided that
34 the issuance date of the tax credit certificate or tax credit transfer
35 certificate to the taxpayer surrendering such certificate occurred at
36 least one year prior to the date of surrender and that the certificate
37 has not been sold or assigned previously.

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

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

3 89. a. The Director of the Division of Taxation in the
4 Department of the Treasury may purchase unused tax credits
5 awarded under a program listed in subsection b. of this section,
6 including tax credit transfer certificates issued by the director in
7 lieu of a tax credit allowed under such programs. The director shall
8 not pay consideration in excess of 75 percent of the credit amount
9 to be purchased, except for a credit awarded under:

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

14 (2) the "New Jersey Aspire Program Act," sections 54 through
15 67 (²~~C.34:1B-222~~ C.34:1B-322² through C.34:1B-335), as
16 amended and supplemented, which shall be subject to the provisions
17 of section 12 of P.L. _____, c. _____ (C. _____) (pending before the
18 Legislature as this bill).

19 b. The Director of the Division of Taxation in the Department
20 of the Treasury may purchase tax credits awarded under the
21 following:

22 (1) the "Historic Property Reinvestment Act," sections ²~~1~~ ²~~2~~
23 through 8 of P.L.2020, c.156 (²~~C.34:1B-269~~ C.34:1B-270²
24 through C.34:1B-276);

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

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

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

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

35 (6) the "New Jersey Aspire Program Act," sections 54 through
36 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);

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

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

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

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

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

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

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

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

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

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

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

10 (c) "Corporation" shall mean any corporation, joint-stock
11 company or association and any business conducted by a trustee or
12 trustees wherein interest or ownership is evidenced by a certificate
13 of interest or ownership or similar written instrument, any other
14 entity classified as a corporation for federal income tax purposes,
15 and any state or federally chartered building and loan association or
16 savings and loan association.

17 (d) "Net worth" shall mean the aggregate of the values disclosed
18 by the books of the corporation for (1) issued and outstanding
19 capital stock, (2) paid-in or capital surplus, (3) earned surplus and
20 undivided profits, and (4) surplus reserves which can reasonably be
21 expected to accrue to holders or owners of equitable shares, not
22 including reasonable valuation reserves, such as reserves for
23 depreciation or obsolescence or depletion. Notwithstanding the
24 foregoing, net worth shall not include any deduction for the amount
25 of the excess depreciation described in paragraph (2) (F) of
26 subsection (k) of this section. The foregoing aggregate of values
27 shall be reduced by 50% of the amount disclosed by the books of
28 the corporation for investment in the capital stock of one or more
29 subsidiaries, which investment is defined as ownership (1) of at
30 least 80% of the total combined voting power of all classes of stock
31 of the subsidiary entitled to vote and (2) of at least 80% of the total
32 number of shares of all other classes of stock except nonvoting
33 stock which is limited and preferred as to dividends. In the case of
34 investment in an entity organized under the laws of a foreign
35 country, the foregoing requisite degree of ownership shall effect a
36 like reduction of such investment from the net worth of the
37 taxpayer, if the foreign entity is considered a corporation for any
38 purpose under the United States federal income tax laws, such as
39 (but not by way of sole examples) for the purpose of supplying
40 deemed paid foreign tax credits or for the purpose of status as a
41 controlled foreign corporation. In calculating the net worth of a
42 taxpayer entitled to reduction for investment in subsidiaries, the
43 amount of liabilities of the taxpayer shall be reduced by such
44 proportion of the liabilities as corresponds to the ratio which the
45 excluded portion of the subsidiary values bears to the total assets of
46 the taxpayer.

1 In the case of banking corporations which have international
2 banking facilities as defined in subsection (n), the foregoing
3 aggregate of values shall also be reduced by retained earnings of the
4 international banking facility. Retained earnings means the earnings
5 accumulated over the life of such facility and shall not include the
6 distributive share of dividends paid and federal income taxes paid
7 or payable during the tax year.

8 If in the opinion of the director, the corporation's books do not
9 disclose fair valuations the director may make a reasonable
10 determination of the net worth which, in his opinion, would reflect
11 the fair value of the assets, exclusive of subsidiary investments as
12 defined aforesaid, carried on the books of the corporation, in
13 accordance with sound accounting principles, and such
14 determination shall be used as net worth for the purpose of this act.

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

16 (f) "Investment company" shall mean any corporation whose
17 business during the period covered by its report consisted, to the
18 extent of at least 90 percent thereof of holding, investing and
19 reinvesting in stocks, bonds, notes, mortgages, debentures, patents,
20 patent rights and other securities for its own account, but this shall
21 not include any corporation which: (1) is a merchant or a dealer of
22 stocks, bonds and other securities, regularly engaged in buying the
23 same and selling the same to customers; or (2) had less than 90
24 percent of its average gross assets in New Jersey, at cost, invested
25 in stocks, bonds, debentures, mortgages, notes, patents, patent rights
26 or other securities or consisting of cash on deposit during the period
27 covered by its report; or (3) is a banking corporation, a savings
28 institution, or a financial business corporation as defined in the
29 Corporation Business Tax Act.

30 (g) "Regulated investment company" shall mean any corporation
31 which for a period covered by its report, is registered and regulated
32 under the Investment Company Act of 1940 (²**[54 Stat. 789]** 15
33 U.S.C. ss.80a-1 et seq.²), as amended.

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

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

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

45 (k) "Entire net income" shall mean total net income from all
46 sources, whether within or without the United States, and shall
47 include the gain derived from the employment of capital or labor, or

1 from both combined, as well as profit gained through a sale or
2 conversion of capital assets.

3 For the purpose of this act, the amount of a taxpayer's entire net
4 income shall be deemed prima facie to be equal in amount to the
5 taxable income, before net operating loss deduction and special
6 deductions, which the taxpayer is required to report, or, if the
7 taxpayer is classified as a partnership for federal tax purposes,
8 would otherwise be required to report, to the United States Treasury
9 Department for the purpose of computing its federal income tax,
10 provided however, that in the determination of such entire net
11 income,

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

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

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

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

27 (C) Taxes paid or accrued to the United States, a possession or
28 territory of the United States, a state, a political subdivision thereof,
29 or the District of Columbia, or to any foreign country, state,
30 province, territory or subdivision thereof, on or measured by profits
31 or income, or business presence or business activity, or the tax
32 imposed by this act, or any tax paid or accrued with respect to
33 subsidiary dividends excluded from entire net income as provided
34 in paragraph (5) of subsection (k) of this section.

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

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

37 (F) (i) The amount by which depreciation reported to the United
38 States Treasury Department for property placed in service on and
39 after January 1, 1981, but prior to taxpayer fiscal or calendar
40 accounting years beginning on and after the effective date of
41 P.L.1993, c.172, for purposes of computing federal taxable income
42 in accordance with section 168 of the Internal Revenue Code in
43 effect after December 31, 1980, exceeds the amount of depreciation
44 determined in accordance with the Internal Revenue Code
45 provisions in effect prior to January 1, 1981, but only with respect
46 to a taxpayer's accounting period ending after December 31, 1981;
47 provided, however, that where a taxpayer's accounting period

1 begins in 1981 and ends in 1982, no modification shall be required
2 with respect to this paragraph (F) for the report filed for such period
3 with respect to property placed in service during that part of the
4 accounting period which occurs in 1981. The provisions of this
5 subparagraph shall not apply to assets placed in service prior to
6 January 1, 1998 of a gas, gas and electric, and electric public utility
7 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et
8 seq.) prior to 1998.

9 (ii) For the periods set forth in subparagraph (F)(i) of paragraph
10 (2) of this subsection, any amount, except with respect to qualified
11 mass commuting vehicles as described in section 168(f)(8)(D)(v) of
12 the Internal Revenue Code as in effect immediately prior to January
13 1, 1984, which the taxpayer claimed as a deduction in computing
14 federal income tax pursuant to a qualified lease agreement under
15 paragraph (8) of that section.

16 The director shall promulgate rules and regulations necessary to
17 carry out the provisions of this section, which rules shall provide,
18 among others, the manner in which the remaining life of property
19 shall be reported.

20 (G) (i) The amount of any civil, civil administrative, or criminal
21 penalty or fine, including a penalty or fine under an administrative
22 consent order, assessed and collected for a violation of a State or
23 federal environmental law, an administrative consent order, or an
24 environmental ordinance or resolution of a local governmental
25 entity, and any interest earned on the penalty or fine, and any
26 economic benefits having accrued to the violator as a result of a
27 violation, which benefits are assessed and recovered in a civil, civil
28 administrative, or criminal action, or pursuant to an administrative
29 consent order. The provisions of this paragraph shall not apply to a
30 penalty or fine assessed or collected for a violation of a State or
31 federal environmental law, or local environmental ordinance or
32 resolution, if the penalty or fine was for a violation that resulted
33 from fire, riot, sabotage, flood, storm event, natural cause, or other
34 act of God beyond the reasonable control of the violator, or caused
35 by an act or omission of a person who was outside the reasonable
36 control of the violator.

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

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

46 (I) With respect to privilege periods ending before July 31,
47 2023, interest paid, accrued or incurred for the privilege period to a

1 related member, as defined in section 5 of P.L.2002, c.40
2 (C.54:10A-4.4), except that a deduction shall be permitted to the
3 extent that the taxpayer establishes by clear and convincing
4 evidence, as determined by the director, that: (i) a principal purpose
5 of the transaction giving rise to the payment of the interest was not
6 to avoid taxes otherwise due under Title 54 of the Revised Statutes
7 or Title 54A of the New Jersey Statutes, (ii) the interest is paid
8 pursuant to arm's length contracts at an arm's length rate of interest,
9 and (iii)(aa) the related member was subject to a tax on its net
10 income or receipts in this State or another state or possession of the
11 United States or in a foreign nation, (bb) a measure of the tax
12 includes the interest received from the related member, and (cc) the
13 rate of tax applied to the interest received by the related member is
14 equal to or greater than a rate three percentage points less than the
15 rate of tax applied to taxable interest by this State pursuant to
16 section 5 of P.L.1945, c.162 (C.54:10A-5).

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

26 With respect to privilege periods ending before July 31, 2023, a
27 deduction shall also be permitted to the extent that the taxpayer
28 establishes by a preponderance of the evidence, as determined by
29 the director, that the interest is directly or indirectly paid, accrued
30 or incurred to (i) a related member in a foreign nation which has in
31 force a comprehensive income tax treaty with the United States and
32 the related member (aa) was subject to tax in the foreign nation on a
33 tax base that included the payment paid, accrued, or incurred; and
34 (bb) under which the related member's income received from the
35 transaction was taxed at an effective tax rate equal to or greater than
36 a rate of three percentage points less than the rate of tax applied to
37 taxable interest by the State of New Jersey pursuant to section 5 of
38 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer
39 shall disclose on its return for the privilege period the name of the
40 related member, the amount of the interest, the relevant foreign
41 nation, and such other information as the director may prescribe or
42 (ii) to an independent lender and the taxpayer guarantees the debt
43 on which the interest is required. The adjustments required by this
44 subparagraph shall not apply to transactions between related
45 members included in a combined group reported on a New Jersey
46 combined return.

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

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

26 (K) (i) For privilege periods beginning after December 31, 2017
27 and ending before July 31, 2022, the interest deduction limitation in
28 subsection (j) of section 163 of the Internal Revenue Code
29 (26 U.S.C. s.163), shall apply on a pro-rata basis to interest paid to
30 both related and unrelated parties, regardless of whether the related
31 parties are subject to the add-back provision of either subparagraph
32 (I) of paragraph (2) of this subsection or in section 5 of P.L.2002,
33 c.40 (C.54:10A-4.4).

34 (ii) For privilege periods beginning after December 31, 2017
35 and ending on and after July 31, 2022, the interest deduction
36 limitation in subsection (j) of section 163 of the Internal Revenue
37 Code (26 U.S.C. s.163), shall apply to a combined group as though
38 the combined group filed a federal consolidated return; provided,
39 however, for the purposes of applying the limitation in subsection
40 (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163),
41 with regard to affiliates that were members of the federal
42 consolidated return but were not members of the combined group
43 included on the New Jersey combined return, the combined group
44 and the affiliates will also be treated as having filed one federal
45 consolidated return.

46 (3) The director may, whenever necessary to properly reflect the
47 entire net income of any taxpayer, determine the year or period in

1 which any item of income or deduction shall be included, without
2 being limited to the method of accounting employed by the
3 taxpayer.

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

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

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

14 (i) Making, arranging for, placing or carrying loans to foreign
15 persons, provided, however, that in the case of a foreign person
16 which is an individual, or which is a foreign branch of a domestic
17 corporation (other than a bank), or which is a foreign corporation or
18 foreign partnership which is controlled by one or more domestic
19 corporations (other than banks), domestic partnerships or resident
20 individuals, all the proceeds of the loan are for use outside of the
21 United States;

22 (ii) Making or placing deposits with foreign persons which are
23 banks or foreign branches of banks (including foreign subsidiaries)
24 or foreign branches of the taxpayers or with other international
25 banking facilities;

26 (iii) Entering into foreign exchange trading or hedging
27 transactions related to any of the transactions described in this
28 paragraph; or

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

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

34 (5) (A) (i) Entire net income shall exclude 100% of dividends
35 which were included in computing such taxable income for federal
36 income tax purposes, paid to the taxpayer by one or more
37 subsidiaries owned by the taxpayer to the extent of the 80% or more
38 ownership of investment described in subsection (d) of this section
39 for privilege periods beginning on or before December 31, 2016.

40 (ii) For privilege periods beginning after December 31, 2016
41 and before January 1, 2019, entire net income shall exclude 95% of
42 dividends which were included in computing such taxable income
43 for federal income tax purposes, paid or deemed paid, to the
44 taxpayer by one or more subsidiaries owned by the taxpayer to the
45 extent of the 80% or more ownership of investment described in
46 subsection (d) of this section. For the purposes of calculating the
47 tax liability owed for the paid or deemed paid dividends included in

1 entire net income by this subsubparagraph (ii), the taxpayer shall
2 use either their three-year average allocation factor for the
3 taxpayer's 2014 through 2016 tax years reported on the taxpayer's
4 tax returns or 3.5 percent, whichever is lower.

5 (iii) For privilege periods beginning on and after January 1, 2019
6 and ending before July 31, 2023, entire net income shall exclude
7 95% of dividends which were included in computing such taxable
8 income for federal income tax purposes, paid or deemed paid to the
9 taxpayer by one or more subsidiaries owned by the taxpayer to the
10 extent of the 80% or more ownership of investment described in
11 subsection (d) of this section.

12 (iv) For privilege periods ending on and after July 31, 2023,
13 entire net income shall exclude 100 percent of dividends and
14 deemed dividends that were included in computing such taxable
15 income for federal income tax purposes, paid or deemed paid to the
16 taxpayer by one or more subsidiaries owned by the taxpayer to the
17 extent of the 80 percent or more ownership of investment described
18 in subsection (d) of this section.

19 (B) Entire net income shall exclude 50% of dividends which
20 were included in computing such taxable income for federal income
21 tax purposes, paid or deemed paid to the taxpayer by one or more
22 subsidiaries owned by the taxpayer to the extent of 50% or more
23 ownership of investment, such ownership of investment calculated
24 in the same manner as the 80% or more of ownership of investment
25 is calculated as described in subsection (d) of this section.

26 (C) To the extent a subsidiary received dividends from other
27 subsidiaries and included those dividends in its entire net income
28 for the purposes of determining its tax liability pursuant to section 5
29 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends,
30 the taxpayer receiving those same dividends from the subsidiary
31 shall exclude those dividends from its entire net income based on
32 the subsidiary's allocation factor used by the subsidiary in
33 determining its tax liability pursuant to section 5 of P.L.1945, c.162
34 (C.54:10A-5). This subparagraph (C) shall not apply to privilege
35 periods ending on and after July 31, 2019.

36 (D) For privilege periods ending on and after July 31, 2019 but
37 before July 31, 2020, to the extent a subsidiary received dividends
38 from other subsidiaries and included those dividends in its entire net
39 income for the purposes of determining its tax liability pursuant to
40 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
41 dividends, the taxpayer receiving those same dividends from the
42 subsidiary shall exclude those dividends from its entire net income.

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

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

2 (i) The exclusion provided by this paragraph (5) shall be
3 deducted from entire net income after the State modifications that
4 increase federal entire net income but before the other State
5 modifications that reduce entire net income and before the
6 allocation of entire net income to this State.

7 (ii) In computing the total amount of the dividends and deemed
8 dividends excluded by this paragraph (5) for privilege periods
9 ending on and after July 31, 2023, the amount of dividends and
10 deemed dividends excluded shall be reduced by the amount of the
11 expenses and deductions that are attributable to those dividends and
12 deemed dividends. For purposes of this paragraph (5), expenses
13 and deductions related to dividends shall equal five percent of all
14 dividends and deemed dividends received by a taxpayer during an
15 income year.

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

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

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

40 (C) Net operating loss. For purposes of this paragraph the term
41 "net operating loss" means the excess of the deductions over the
42 gross income used in computing entire net income without the net
43 operating loss deduction provided for in subparagraph (A) of this
44 paragraph and the exclusions in paragraphs (4) and (5) of this
45 subsection.

46 (D) Change in ownership. Where there is a change in 50% or
47 more of the ownership of a corporation because of redemption or

1 sale of stock and the corporation changes the trade or business
2 giving rise to the loss, no net operating loss sustained before the
3 changes may be carried over to be deducted from income earned
4 after such changes. In addition where the facts support the premise
5 that the corporation was acquired under any circumstances for the
6 primary purpose of the use of its net operating loss carryover, the
7 director may disallow the carryover.

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

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

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

35 (7) The entire net income of gas, electric and gas and electric
36 public utilities that were subject to, or would have been subject to
37 tax if doing business in this State, the provisions of P.L.1940, c.5
38 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by
39 substituting the New Jersey depreciation allowance for federal tax
40 depreciation with respect to assets placed in service prior to January
41 1, 1998. For gas, electric, and gas and electric public utilities that
42 were subject to, or would have been subject to tax if doing business
43 in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.)
44 prior to 1998, the New Jersey depreciation allowance shall be
45 computed as follows: All depreciable assets placed in service prior
46 to January 1, 1998 shall be considered a single asset account. The
47 New Jersey tax basis of this depreciable asset account shall be an

1 amount equal to the carryover adjusted basis for federal income tax
2 purposes on December 31, 1997 of all depreciable assets in service
3 on December 31, 1997, increased by the excess, of the "net carrying
4 value," defined to be adjusted book basis of all assets and liabilities,
5 excluding deferred income taxes, recorded on the public utility's
6 books of account on December 31, 1997, over the carryover
7 adjusted basis for federal income tax purposes on December 31,
8 1997 of all assets and liabilities owned by the gas, electric, or gas
9 and electric public utility as of December 31, 1997. "Books of
10 account" for gas, gas and electric, and electric public utilities means
11 the uniform system of accounts as promulgated by the Federal
12 Energy Regulatory Commission and adopted by the Board of Public
13 Utilities. The following adjustments to entire net income shall be
14 made pursuant to this section:

15 (A) Depreciation for property placed in service prior to January
16 1, 1998 shall be adjusted as follows:

17 (i) Depreciation for federal income tax purposes shall be
18 disallowed in full.

19 (ii) A deduction shall be allowed for the New Jersey
20 depreciation allowance. The New Jersey depreciation allowance
21 shall be computed for the single asset account described above
22 based on the New Jersey tax basis as adjusted above as if all assets
23 in the single asset account were first placed in service on January 1,
24 1998. Depreciation shall be computed using the straight line method
25 over a thirty-year life. A full year's depreciation shall be allowed in
26 the initial tax year. No half-year convention shall apply. The
27 depreciable basis of the single account shall be reduced by the
28 adjusted federal tax basis of assets sold, retired, or otherwise
29 disposed of during any year on which gain or loss is recognized for
30 federal income tax purposes as described in subparagraph (B) of
31 this paragraph.

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

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

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

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

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

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

42 (12)(A) Notwithstanding the provisions of subsection (k) of
43 section 168 of the federal Internal Revenue Code of 1986, 26
44 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal
45 Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal
46 law, for property acquired after September 10, 2001, the
47 depreciation deduction otherwise allowed pursuant to section 167 of

1 the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall
2 be determined pursuant to the provisions of the federal Internal
3 Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on
4 December 31, 2001.

5 (B) The director shall prescribe the rules and regulations
6 necessary to carry out the provisions of this paragraph, including,
7 among others, those for determining the adjusted basis of the
8 acquired property for the purposes of the Corporation Business Tax
9 Act (1945), P.L.1945, c.162 ²(C.54:10A-1 et seq.)².

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

17 (B) The director shall prescribe the rules and regulations
18 necessary to carry out the provisions of this paragraph, including,
19 among others, those for determining the adjusted basis of the
20 acquired property for the purposes of the Corporation Business Tax
21 Act (1945), P.L.1945, c. 162 ²(C.54:10A-1 et seq.)².

22 (14)Notwithstanding the provisions of subsection (i) of section
23 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
24 for privilege periods beginning after December 31, 2008 and before
25 January 1, 2011, entire net income shall include the amount of
26 discharge of indebtedness income excluded for federal income tax
27 purposes pursuant to subsection (i) of section 108 of the federal
28 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
29 periods beginning on or after January 1, 2014 and before January 1,
30 2019, entire net income shall exclude the amount of discharge of
31 indebtedness income included for federal income tax purposes,
32 pursuant to subsection (i) of section 108 of the federal Internal
33 Revenue Code of 1986 (26 U.S.C. s.108).

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

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

42 (B) For purposes of this paragraph, "net deferred tax liability"
43 means deferred tax liabilities that exceed the deferred tax assets of
44 the combined group, as computed in accordance with generally
45 accepted accounting principles, and "net deferred tax asset" means
46 that deferred tax assets exceed the deferred tax liabilities of the

1 combined group, as computed in accordance with generally
2 accepted accounting principles.

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

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

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

32 (ii) For group privilege periods beginning on and after January
33 1, 2023, but before January 1, 2030, the combined group may
34 deduct one percent of the amount necessary to offset the increase in
35 the net deferred tax liability or decrease in the net deferred tax
36 asset, or aggregate change from a net deferred tax asset to a net
37 deferred tax liability, during a group privilege period. Such
38 increase in the net deferred tax liability or decrease in the net
39 deferred tax asset or the aggregate change from a net deferred tax
40 asset to a net deferred tax liability shall be computed based on the
41 change that would result from the imposition of the unitary
42 reporting requirements under sections 1 and 18 through 23 of
43 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-
44 4.11) but for the deduction provided under this paragraph as of the
45 effective date of this paragraph.

46 (iii) For group privilege periods beginning on and after January
47 1, 2030, the combined group may deduct up to five percent of any

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

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

14 (i) the deferred tax impact determined in subparagraph (E) of
15 this paragraph shall be divided by the rate determined under section
16 5 of P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018,
17 c.48 (C.54:10A-5.41 et al.);

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

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

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

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

44 (17)(A) In the case of a taxpayer that is a cannabis licensee,
45 there shall be allowed as a deduction an amount equal to any
46 expenditure that is eligible to be claimed as a federal income tax
47 deduction but is disallowed because cannabis is a controlled

1 substance under federal law, and income shall be determined
2 without regard to section 280E of the Internal Revenue Code (26
3 U.S.C. s.280E) for cannabis licensees.

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

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

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

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

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

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

41 (m) "Financial business corporation" shall mean any corporate
42 enterprise which is (1) in substantial competition with the business
43 of national banks and which (2) employs moneyed capital with the
44 object of making profit by its use as money, through discounting
45 and negotiating promissory notes, drafts, bills of exchange and
46 other evidences of debt; buying and selling exchange; making of or
47 dealing in secured or unsecured loans and discounts; dealing in

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

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

1 System. The regulations of the Commissioner of Banking and
2 Insurance shall thereafter provide the applicable definitions.

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

6 (p) "New Jersey S corporation" means a taxpayer that has made
7 a valid election to be an S corporation for federal tax purposes, and
8 that has not made a valid election pursuant to subsection d. of
9 section ²[20] ³ of ²[P.L.2022, c.133] P.L.1993, c.173²
10 (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

1 year subject to the limitations for deduction under such subsection,
2 including any net operating loss sustained by the taxpayer during
3 the base year.

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

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

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

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

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

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

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

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

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

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

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

1 (w) "Taxable net income" means entire net income allocated to
2 this State as calculated pursuant to sections 6 through 8 of
3 P.L.1945, c.162 (C.54:10A-6 through 54:10A-8) as modified by
4 subtracting any prior net operating loss conversion carryforward
5 calculated pursuant to subsection (u) of this section, and any net
6 operating loss calculated pursuant to subsection (v) of this section;
7 provided, however, for privilege periods ending on and after July
8 31, 2023, when subtracting any net operating losses calculated
9 pursuant to subsection (v) of this section or the combined group net
10 operating losses calculated pursuant to subsection h. of section 18
11 of P.L.2018, c.48 (C.54:10A-4.6), the limitation set forth in
12 paragraph (2) of subsection (a) of Internal Revenue Code Section
13 172 (26 U.S.C. s.172(a)(2)) shall apply, except that August 1, 2023
14 is substituted for the reference to January 1, 2018 in subparagraph
15 (A) of paragraph (2) of subsection a. of Internal Revenue Code
16 Section 172 (26 U.S.C. s.172), and July 31, 2023 is substituted for
17 the reference to December 31, 2017 in subparagraph (B) of
18 paragraph (2) of subsection (a) of Internal Revenue Code Section
19 172 (26 U.S.C. s.172). For privilege periods ending on and after
20 July 31, 2023, for a combined group, before subtracting the prior
21 net operating loss conversion carryforwards and subtracting the net
22 operating losses of the combined group when computing the total
23 taxable net income, the combined group shall first add together the
24 allocated entire net income from the unitary business of the
25 combined group and the portion of allocated entire net income of
26 members with activities independent of the group, and then subtract
27 the prior net operating loss conversion carryforwards and then the
28 net operating losses.

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

39 For purposes of this subsection:

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

1 "Commonly owned" means that more than 50 percent of the
2 voting control of each member of an affiliated group is directly or
3 indirectly owned by a common owner or owners, either corporate or
4 non-corporate, whether or not the owner or owners are members of
5 the affiliated group. Whether voting control is indirectly owned
6 shall be determined in accordance with section 318 of the federal
7 Internal Revenue Code (26 U.S.C. s.318).

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

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

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

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

20 (4) 50% or less of whose gross receipts for the privilege period
21 consist of premiums from arrangements that constitute insurance for
22 federal income tax purposes.

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

29 For purposes of this definition:

30 "Affiliated group" shall have the same meaning as that term is
31 given by section 1504 of the federal Internal Revenue Code, 26
32 U.S.C. s.1504, except that the term "common parent corporation" as
33 used in section 1504 of the federal Internal Revenue Code, 26
34 U.S.C. s.1504, shall mean any person, as defined in section 7701 of
35 the federal Internal Revenue Code, 26 U.S.C. s.7701, and references
36 to "at least 80%" in section 1504 of the federal Internal Revenue
37 Code, 26 U.S.C. s.1504, shall be read as "50% or more." Section
38 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall
39 be read without regard to the exclusions provided for in subsection
40 (b) of that section.

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

45 "Premiums" includes consideration for annuity contracts and
46 excludes any part of the consideration for insurance, reinsurance, or

1 annuity contracts that do not provide bona fide insurance,
2 reinsurance, or annuity benefits.

3 (z) "Combined group" means the group of all companies that
4 have common ownership and are engaged in a unitary business,
5 where at least one company is subject to tax under this chapter, and
6 shall include all business entities, except as provided for under any
7 section of the Corporation Business Tax Act (1945), P.L.1945,
8 c.162 (C.54:10A-1 et seq.).

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

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

26 (bb) "Group privilege period" means, if two or more members in
27 the combined group file in the same federal consolidated tax return,
28 the same income year as that used on the federal consolidated tax
29 return and, in all other cases, the privilege period of the managerial
30 member.

31 (cc) "Managerial member" means if the combined group has a
32 common parent corporation and that common parent corporation is
33 a taxable member, the managerial member shall be the common
34 parent corporation. In other cases, the combined group shall select a
35 taxable member as its managerial member or, in the discretion of
36 the director or upon failure of the combined group to select its
37 managerial member, the director shall designate a taxable member
38 of the combined group as managerial member.

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

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

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

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

4 A New Jersey S corporation shall only be included as a taxable
5 member of a combined group filing a New Jersey combined return
6 if the New Jersey S Corporation elects to be included as a member
7 and taxed at the same rate as the other members of the combined
8 group. A New Jersey S corporation that does not elect to be
9 included shall be excluded as a member of the combined return and
10 shall file a separate return.

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

41 (hh)"Captive investment company" shall mean, for privilege
42 periods ending on and after July 31, 2023, an investment company
43 that is not regularly traded on an established securities market and
44 of which more than 50 percent of the voting stock is owned or
45 controlled, directly or indirectly, by a single corporation, other than
46 an investment company, that is not exempt from federal income tax.
47 For purposes of this subsection, a captive investment company shall

1 not include any captive investment company of which at least 50
2 percent of the shares, by vote or value, is owned or controlled,
3 directly or indirectly, by a state or federally chartered bank, savings
4 bank, or savings and loan association with assets that do not exceed
5 \$15 billion.

6 For privilege periods ending on and after July 31, 2023, any
7 voting stock in an investment company that is held in a segregated
8 asset account of a life insurance corporation, as described in section
9 817 of the Internal Revenue Code, shall not be taken into account
10 for purposes of determining whether an investment company is a
11 captive regulated investment company.

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

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

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

45 For privilege periods ending on and after July 31, 2023, a captive
46 real estate investment trust shall be taxed in the same manner as a C
47 corporation, and subsection d. of section 5 of P.L.1945, c.162

1 (C.54:10A-5) shall not apply. A captive real estate investment trust
2 shall not be permitted to claim any deductions or expenses that were
3 permitted for federal purposes, solely as a result of the entity being
4 a real estate investment trust, when computing federal taxable net
5 income. A captive real estate investment trust shall be a member of
6 a combined group and shall be included as a member on the
7 combined return.

8 As used in this subsection:

9 "Australian property trust" means an Australian unit trust that is
10 registered as a managed investment scheme under the Australian
11 Corporations Act, and in which the principal class of units is listed
12 on a recognized stock exchange in Australia and is regularly traded
13 on an established securities market; or an entity organized as a trust,
14 provided that a listed Australian property trust owns or controls,
15 directly or indirectly, 75 percent or more of the voting power or
16 value of the beneficial interests of shares of the trust.

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

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

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

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

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

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

40 (jj) "Captive regulated investment company" shall mean, for
41 privilege periods ending on and after July 31, 2023, a regulated
42 investment company that is not regularly traded on an established
43 securities market, and of which more than 50 percent of the voting
44 stock is owned or controlled, directly or indirectly, by a single
45 corporation, other than a regulated investment company, that is not
46 exempt from federal income tax. For purposes of this subsection, a
47 captive regulated investment company shall not include any captive

1 regulated investment company of which at least 50 percent of the
2 shares, by vote or value, is owned or controlled, directly or
3 indirectly, by a state or federally chartered bank, savings bank, or
4 savings and loan association with assets that do not exceed \$15
5 billion.

6 For privilege periods ending on and after July 31, 2023, any
7 voting stock in a regulated investment company that is held in a
8 segregated asset account of a life insurance corporation, as
9 described in section 817 of the Internal Revenue Code (26 U.S.C.
10 s.817), shall not be taken into account for purposes of determining
11 whether a regulated investment company is a captive regulated
12 investment company.

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

23 (kk) "World-wide basis" and "world-wide group" shall mean, for
24 privilege periods ending on and after July 31, 2022, for the
25 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6
26 through C.54:10A-4.11) and for the purposes of combined reporting
27 in general under the Corporation Business Tax Act (1945),
28 P.L.1945, c.162 (C.54:10A-1 et seq.), that the combined group shall
29 include all of the members of the combined group, wherever located
30 or formed. For privilege periods ending on and after July 31, 2022,
31 the combined group shall include all of the income and attributes of
32 those members regardless of how or whether those members file
33 federal returns or report or include their income in federal taxable
34 income for federal purposes, and without regard to any exemption
35 or exclusion from federal taxable income under the terms of a tax
36 treaty; provided, however, any deductions that are allowed under
37 the federal Internal Revenue Code that are also allowable under the
38 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
39 et seq.), that would apply to a U.S. corporation, but that a non-U.S.
40 corporation is prohibited from claiming for federal corporation
41 income tax purposes because the corporation's income was not
42 included in federal taxable income for any reason or because the
43 corporation is a non-U.S. corporation, shall be allowed for the non-
44 U.S. corporation members of the combined group for New Jersey
45 corporation business tax purposes as though those non-U.S.
46 corporation members were U.S. corporations.
47 (cf: P.L.2023, c.96, s.1)

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

2 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
3 income shall consist of the following categories of income:

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

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

16 (1) taxes based on income;

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

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

40 c. Net gains or income from disposition of property. Net gains
41 or net income, less net losses, derived from the sale, exchange or
42 other disposition of property, including real or personal, whether
43 tangible or intangible as determined in accordance with the method
44 of accounting allowed for federal income tax purposes. For the
45 purpose of determining gain or loss, the basis of property shall be
46 the adjusted basis used for federal income tax purposes, except as
47 expressly provided for under this act, but without a deduction for

1 penalties, fines, or economic benefits excepted pursuant to
2 paragraph (2), or for treble damages excepted pursuant to paragraph
3 (3) of subsection b. of this section.

4 A taxpayer's net gain or loss on the sale, exchange or other
5 disposition of a share of an S corporation shall be calculated by
6 increasing the adjusted basis of the share by an amount equal to the
7 shareholder's net losses and deductions in respect of the share
8 allowed and deducted from income for federal income tax purposes,
9 not including any personal net operating loss deductions, to the
10 extent that such net losses were not offset by the taxpayer's pro rata
11 share of S corporation income otherwise subject to taxation
12 pursuant to subsection p. of this section in respect of another S
13 corporation, subject to rules of priority and assignment determined
14 by the director.

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

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

1 after the exchange such person or persons are in control of the
2 corporation. For purposes of this clause, stock or securities issued
3 for services shall not be considered as issued in return for property.

4 For purposes of this clause, the term "reorganization" means ~~---~~:

5 (i) A statutory merger or consolidation;

6 (ii) The acquisition by one corporation, in exchange solely for
7 all or part of its voting stock (or in exchange solely for all or a part
8 of the voting stock of a corporation which is in control of the
9 acquiring corporation) of stock of another corporation if,
10 immediately after the acquisition, the acquiring corporation has
11 control of such other corporation (whether or not such acquiring
12 corporation had control immediately before the acquisition);

13 (iii) The acquisition by one corporation, in exchange solely for
14 all or part of its voting stock (or in exchange solely for all or a part
15 of the voting stock of a corporation which is in control of the
16 acquiring corporation), of substantially all of the properties of
17 another corporation, but in determining whether the exchange is
18 solely for stock the assumption by the acquiring corporation of a
19 liability of the other, or the fact that property acquired is subject to
20 a liability, shall be disregarded;

21 (iv) A transfer by a corporation of all or a part of its assets to
22 another corporation if immediately after the transfer the transferor,
23 or one or more of its shareholders (including persons who were
24 shareholders immediately before the transfer), or any combination
25 thereof, is in control of the corporation to which the assets are
26 transferred;

27 (v) A recapitalization;

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

30 (vii) The acquisition by one corporation, in exchange for stock of
31 a corporation (referred to in this subclause as "controlling
32 corporation") which is in control of the acquiring corporation, of
33 substantially all of the properties of another corporation which in
34 the transaction is merged into the acquiring corporation shall not
35 disqualify a transaction under subclause (i) if such transaction
36 would have qualified under subclause (i) if the merger had been into
37 the controlling corporation, and no stock of the acquiring
38 corporation is used in the transaction;

39 (viii) A transaction otherwise qualifying under subclause (i) shall
40 not be disqualified by reason of the fact that stock of a corporation
41 (referred to in this subclause as the "controlling corporation") which
42 before the merger was in control of the merged corporation is used
43 in the transaction, if after the transaction, the corporation surviving
44 the merger holds substantially all of its properties and of the
45 properties of the merged corporation (other than stock of the
46 controlling corporation distributed in the transaction); and in the
47 transaction, former shareholders of the surviving corporation

1 exchanged, for an amount of voting stock of the controlling
2 corporation, an amount of stock in the surviving corporation which
3 constitutes control of such corporation.

4 For purposes of this clause, the term "control" means the
5 ownership of stock possessing at least 80% of the total combined
6 voting power of all classes of stock entitled to vote and at least 80%
7 of the total number of shares of all other classes of stock of the
8 corporation.

9 For purposes of this clause, the term "a party to a reorganization"
10 includes a corporation resulting from a reorganization, and both
11 corporations, in the case of a reorganization resulting from the
12 acquisition by one corporation of stock or properties of another. In
13 the case of a reorganization qualifying under subclause (i) by reason
14 of subclause (vii) the term "a party to a reorganization" includes the
15 controlling corporation referred to in such subclause (vii).

16 Notwithstanding any provisions hereof, upon every such
17 exchange or conversion, the taxpayer's basis for the stock or
18 securities received shall be the same as the taxpayer's actual or
19 attributed basis for the stock, securities or property surrendered in
20 exchange therefor.

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

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

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

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

37 g. Gambling winnings.

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

39 i. Income in respect of a decedent.

40 j. Amounts distributed or withdrawn from an employee trust
41 attributable to contributions to the trust which were excluded from
42 gross income under the provisions of chapter 6 of Title 54A of the
43 New Jersey Statutes, amounts rolled over from an IRA, as defined
44 pursuant to subsection (a) of section 408 of the federal Internal
45 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
46 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
47 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and

1 annuities except to the extent of exclusions in N.J.S.54A:6-10
2 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
3 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
4 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
5 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
6 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,
7 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
8 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
9 and P.L.1943, c.189, s.5 (C.43:13-37.5).

10 k. Distributive share of partnership income, excluding the gain
11 or income derived from the sale or assignment of a tax credit
12 transfer certificate pursuant to section 7 of P.L.2011, c.149
13 (C.34:1B-248) **and**, section 10 of P.L.2014, c.63 (C.34:1B-251),
14 or the "New Jersey Economic Recovery Act of 2020," P.L.2020,
15 c.156 (C.34:1B-269 et al.), as amended and supplemented, from any
16 sale or assignment of a tax credit issued pursuant to an award of tax
17 credits approved by the New Jersey Economic Development
18 Authority **prior to July 1, 2018**, regardless of when such sale or
19 assignment occurs.

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

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

24 n. Alimony and separate maintenance payments to the extent
25 that such payments are required to be made under a decree of
26 divorce or separate maintenance but not including payments for
27 support of minor children.

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

31 p. Net pro rata share of S corporation income, excluding the
32 gain or income derived from the sale or assignment of a tax credit
33 transfer certificate pursuant to section 7 of P.L.2011, c.149
34 (C.34:1B-248) **and**, section 10 P.L.2014, c.63 (C.34:1B-251), or
35 the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156
36 (C.34:1B-269 et al.), as amended and supplemented, from any sale
37 or assignment of a tax credit issued pursuant to an award of tax
38 credits approved by the New Jersey Economic Development
39 Authority **prior to July 1, 2018**, regardless of when such sale or
40 assignment occurs.

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

42

43 ¹16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to
44 read as follows:

45 1. a. The New Jersey Economic Development Authority shall
46 adopt rules and regulations requiring that not less than the
47 prevailing wage rate be paid to workers employed in the

1 performance of any construction contract, including contracts for
2 millwork fabrication, undertaken in connection with authority
3 financial assistance or any of its projects, those projects which it
4 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or
5 undertaken to fulfill any condition of receiving authority financial
6 assistance, including the performance of any contract to construct,
7 renovate or otherwise prepare a facility for operations which are
8 necessary for the receipt of authority financial assistance, unless the
9 work performed under the contract is performed on a facility owned
10 by a landlord of the entity receiving the assistance and less than 35
11 percent of the facility is leased by the entity at the time of the
12 contract and under any agreement to subsequently lease the facility.
13 The prevailing wage rate shall be the rate determined by the
14 Commissioner of Labor and Workforce Development pursuant to
15 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
16 purposes of this section, "authority financial assistance" means any
17 loan, loan guarantee, grant, incentive, tax exemption or other
18 financial assistance that is approved, funded, authorized,
19 administered or provided by the authority to any entity and is
20 provided before, during or after completion of a project, including
21 but not limited to, all authority financial assistance received by the
22 entity pursuant to the "Business Employment Incentive Program
23 Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to
24 engage in a construction contract, but this section shall not be
25 construed as requiring the payment of the prevailing wage for
26 construction commencing more than two years after an entity has
27 executed with the authority a commitment letter regarding authority
28 financial assistance and the first payment or other provision of the
29 assistance is received.

30 b. The New Jersey Economic Development Authority shall
31 adopt rules and regulations requiring that not less than the
32 prevailing wage rate be paid to workers employed in the
33 performance of any contract, for construction, demolition,
34 remediation, removal of hazardous substances, alteration, custom
35 fabrication, repair work, or maintenance work, including painting
36 and decorating, or excavation, grading, pile driving, concrete form,
37 or other types of foundation work in connection with the "New
38 Jersey Community-Anchored Development Act," sections 43
39 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321),
40 the "New Jersey Aspire Program Act," sections 54 through 67 of
41 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
42 "**2**[New Jersey]**2** Emerge Program Act," sections 68 through 81 of
43 P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this
44 subsection shall apply to any site preparation work performed 24
45 months prior to and during the incentive eligibility period of any
46 project receiving tax credits under the "New Jersey Community-
47 Anchored Development Act," sections 43 through 53 of P.L.2020,

1 c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
2 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
3 322 through C.34:1B-335), and the "²【New Jersey】² Emerge
4 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
5 336 et al.), and to projects receiving financial assistance under the
6 “Redevelopment Project Bridge Financing Program,” established
7 pursuant to section 11 of P.L. , c. (C.) (pending before the
8 Legislature as this bill), in which there is a continuity of ownership
9 in the site of the redevelopment project, including work undertaken
10 to fulfill any condition of receiving tax credits under the programs.
11 Work that is subject to the requirements of this subsection shall
12 include the performance of any contract for construction,
13 demolition, remediation, removal of hazardous substances,
14 alteration, custom fabrication, repair work, or maintenance work,
15 including painting and decorating, or excavation, grading, pile
16 driving, concrete form, or other types of foundation work
17 undertaken on a facility for operations which are necessary for the
18 receipt of tax credits under the "New Jersey Community-Anchored
19 Development Act," sections 43 through 53 of P.L.2020, c.156
20 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
21 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
22 322 through C.34:1B-335), and the "²【New Jersey】² Emerge
23 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
24 336 et al.), or the receipt of financial assistance under the
25 “Redevelopment Project Bridge Financing Program,” established
26 pursuant to section 11 of P.L. , c. (C.) (pending before the
27 Legislature as this bill), unless the work performed under the
28 contract is performed on a facility owned by a landlord of the entity
29 receiving the tax credit and less than 35 percent of the facility is
30 leased by the entity at the time of the contract and under any
31 agreement to subsequently lease the facility. The prevailing wage
32 rate shall be the rate determined by the Commissioner of Labor and
33 Workforce Development pursuant to the provisions of P.L.1963,
34 c.150 (C.34:11-56.25 et seq.), and all contractors and
35 subcontractors subject to the prevailing wage requirement set forth
36 in this section shall be registered with the Department of Labor and
37 Workforce Development pursuant to the provisions of section 5 of
38 P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under
39 the "New Jersey Community-Anchored Development Act," sections
40 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-
41 321), the "New Jersey Aspire Program Act," sections 54 through 67
42 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
43 "²【New Jersey】² Emerge Program Act," sections 68 through 81 of
44 P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of
45 perjury as part of its application that all construction contracts
46 undertaken on any project in connection with an award under the
47 programs comply with the prevailing wage requirements of this

1 subsection. If at any time the authority determines that the
2 developer made a material misrepresentation regarding compliance
3 with the provisions of this subsection on the developer's
4 application, the developer shall forfeit 35 percent of the tax credits
5 allowed under the programs, and pay to the affected workers back
6 wages in an amount that compensates the workers at the prevailing
7 wage rate for the work performed.¹
8 (cf: P.L.2020, c.156, s.112)
9
10 ¹**[16.] 17.**¹ This act shall take effect immediately.