

[Second Reprint]

ASSEMBLY, No. 4046

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

SYNOPSIS

Extends certain accommodations for businesses participating in State economic development programs.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on June 10, 2024, with amendments.



(Sponsorship Updated As Of: 3/14/2024)

1 AN ACT concerning certain State economic development programs
2 and amending various parts of the statutory law.

3

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

6

7 1. Section 9 of P.L.1996, c.25 (C.34:1B-120) is amended to read as
8 follows:

9 9. a. As determined by the authority, a business which is awarded
10 a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.) shall
11 submit annually, no later than March 1st of each year, commencing in
12 the year in which the grant of tax credits is issued and for the
13 remainder of the commitment duration, a certificate of compliance that
14 indicates that the business continues to maintain the number of
15 retained full-time jobs as specified in the project agreement. Upon
16 receipt and review thereof during the tax credit term, the authority
17 shall issue a certificate of compliance indicating the amount of tax
18 credits that the business may apply against liability pursuant to section
19 7 of P.L.2004, c.65 (C.34:1B-115.3). Any reduction in the number of
20 retained full-time jobs below the number prescribed under the terms of
21 the project agreement shall proportionately reduce the amount of tax
22 credits the business may apply against liability in that tax period and
23 the credits that may no longer be applied for that tax period shall be
24 forfeited. However, if in any tax period, the number of retained full-
25 time jobs drops below the minimum number of retained full-time jobs
26 indicated in the paragraph of subsection b. of section 7 of P.L.2004,
27 c.65 (C.34:1B-115.3) pursuant to which the project agreement was
28 executed such that the business would no longer be eligible to apply
29 the credits for the number of years for which it was approved, then the
30 authority shall reduce the amount of tax credits the business may apply
31 against liability and the number of years in which the business may
32 apply the tax credits. The grant shall be subject to recapture provisions
33 pursuant to the project agreement.

34 b. Following the termination of the public health emergency
35 declared by the Governor pursuant to Executive Order No. 103 of
36 2020, as extended, a business that has entered into an incentive
37 agreement may elect, before March 31, 2024, to waive, for the period
38 beginning on July 1, 2022 and ending on March 31, 2024, the
39 requirement that a full-time employee who is employed by the
40 business shall spend at least 60 percent of the employee's time at the
41 qualified business facility; provided, however, that a business that
42 makes such an election shall satisfy the following criteria:

43 (1) any full-time employee employed by the business shall spend
44 at least 10 percent of the employee's time at the qualified business

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 AAP committee amendments adopted March 14, 2024.

²Senate SEG committee amendments adopted June 10, 2024.

1 facility for the 2023 tax period ¹and, if elected by the business, the
2 2024 tax period¹ through March 31, 2024; and

3 (2) following the receipt by the business of its tax credit certificate
4 or tax credit transfer certificate for the 2022 tax period, the business
5 shall make a payment of an amount equal to five percent of the amount
6 of tax credit the business receives for the 2022 tax period through
7 March 31, 2024, which payment shall be made to the authority, and
8 which payment the authority shall hold and make available for the
9 provision of loans, guarantees, equity investments, and grants, or other
10 forms of financing to support small business and downtown or
11 commercial corridor activation activities within the municipality in
12 which the qualified business facility is located, as may be designated
13 by the chief executive officer of the authority. ¹Such funds shall be
14 deployed by the authority within 12 months of the authority's receipt
15 of the funds, and the authority shall issue a report each fiscal year to
16 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
17 19.1), detailing how the funds were distributed.¹

18 c. ¹【For the period】 Notwithstanding the provisions of section 2
19 of P.L.1996, c.25 (C.34:1B-113) or any other law or regulation to the
20 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
21 periods, ¹【the authority may authorize】¹ a business ²located outside
22 an enhanced area or government-restricted municipality, as those
23 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),²
24 that has entered into an ¹【amended】¹ incentive agreement with the
25 authority ¹may elect¹ to waive the requirement that a full-time
26 employee who is employed by the business shall spend at least 60
27 percent of the employee's time at the qualified business facility;
28 provided, however, that a business that makes this election shall satisfy
29 the following criteria:

30 (1) ²¹(a) for a qualified business facility located in an enhanced
31 area or government-restricted municipality, as those terms are defined
32 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
33 employee employed by the business shall spend at least 50 percent of
34 the employee's time at the qualified business facility during the tax
35 period;

36 (b)² for a qualified business facility located ²【anywhere else in the
37 State】 outside an enhanced area or government-restricted
38 municipality, as those terms are defined in section 69 of P.L.2020,
39 c.156 (C.34:1B-337)^{2, 1} any full-time employee employed by the
40 business shall spend at least 40 percent of the employee's time at the
41 qualified business facility during the tax period; ¹【and】¹

42 (2) ¹【following the receipt by the business of its tax credit
43 certificate or tax credit transfer certificate for the tax period, the
44 business shall make a payment of an amount equal to 20 percent of the
45 amount of the tax credit the business receives for the tax period, which
46 payment shall be made to the municipal affordable housing trust fund

1 in the municipality in which the qualified business facility is located]
2 the business shall extend by two years the term of its commitment
3 duration beyond the time set forth in the project agreement; and
4 (3) at the time the business submits its tax credit certificate
5 certification for the tax period, the business shall make a non-
6 refundable payment of an amount equal to 10 percent of the amount of
7 the maximum annual tax credit that the business is eligible to receive
8 for the tax period, which payment shall be made to the authority, and
9 which payment the authority shall hold and make available for the
10 provision of loans, guarantees, equity investments, and grants, or other
11 forms of financing to support small business and downtown or
12 commercial corridor activation activities within enhanced areas or
13 government-restricted municipalities, as those terms are defined in
14 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
15 the chief executive officer of the authority. Such funds shall be
16 deployed by the authority within 12 months of the authority's receipt
17 of the funds, and the authority shall issue a report each fiscal year to
18 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
19 19.1), detailing how the funds were distributed¹.
20 d. ¹[The authority, in consultation with the Division of Taxation
21 in the Department of the Treasury, may authorize a tax certificate
22 holder to carry forward tax credits for an additional period specified by
23 the authority, subject to the provisions of this section. The]
24 Notwithstanding the provisions of any law to the contrary, the¹ credit
25 amount may ¹first¹ be taken by the tax certificate holder for the tax
26 period for which it was issued ¹, for the tax period in which it was
27 issued,¹ or ¹[may be carried forward for use by the tax certificate
28 holder in any of the next 20 successive tax periods, and shall expire
29 thereafter] in any tax period during the commitment duration set forth
30 in the project agreement¹ . The tax certificate holder may transfer the
31 tax credit amount on or after the date of issuance ¹[or at any time after
32 the date of issuance.]¹ for use by the transferee in the tax period for
33 which it was issued ¹, for the tax period in which it was issued,¹ or
34 ¹[within a period to be determined by the authority, in consultation
35 with the Division of Taxation, but not to exceed the 20 tax periods
36 immediately succeeding the tax period for which it was issued. In the
37 case of a tax certificate received after the end of the tax period for
38 which the tax certificate was issued, whether by transfer or original
39 issuance, a tax certificate holder or transferee shall not be required to
40 amend the tax return for the tax period for which the tax certificate
41 was issued or any successive tax period to first apply the credit] in any
42 of the next three successive tax periods¹ . The tax certificate holder or
43 transferee may first ¹[claim] use¹ the credit ¹[in any tax period on or
44 after the date of issuance] against tax liabilities in the tax period in
45 which it was issued or in a succeeding tax period, as authorized in this
46 subsection, without the need for amending the tax return for the tax

1 period for which the credit was issued¹ , subject to the ¹carry-forward
2 provision in] provisions of¹ this section. Notwithstanding the
3 foregoing, no more than the amount of tax credits equal to the total
4 credit amount ^{1,1} divided by the duration of the tax credit term, in
5 years, may be taken in any tax period.

6 (cf: P.L.2023, c.261, s.1)

7
8 2. Section 6 of P.L.1996, c.26 (C.34:1B-129) is amended to read
9 as follows:

10 6. a. The amount of the employment incentive awarded as a grant
11 by the authority shall either be awarded in cash or as a tax credit. In
12 each case, the amount of the grant shall be not less than 10 percent and
13 not more than 50 percent of the withholdings of the business, or not
14 less than 10 percent and not more than 30 percent of the estimated tax
15 of the partners of an eligible partnership whether paid directly by the
16 partner or by the eligible partnership on behalf of the partner's account,
17 or any combination thereof, and shall be subject to the provisions of
18 sections 10 and 11 of P.L.1996, c.26 (C.34:1B-133 and C.34:1B-134).
19 In no case shall the aggregate amount of the employment incentive
20 grant awarded pursuant to a business employment incentive agreement
21 entered into on or after July 1, 2003 exceed an average of \$50,000 for
22 all new employees over the term of the grant. The employment
23 incentive shall be based on criteria developed by the authority after
24 considering the following:

25 (1) The number of eligible positions to be created;

26 (2) The expected duration of those positions;

27 (3) The type of contribution the business can make to the long-
28 term growth of the State's economy;

29 (4) The amount of other financial assistance the business will
30 receive from the State for the project;

31 (5) The total dollar investment the business is making in the
32 project;

33 (6) Whether the business is a designated industry;

34 (7) Impact of the business on State tax revenues; and

35 (8) Such other related factors determined by the authority.

36 b. A business may be eligible to be awarded a grant, either in cash
37 or in tax credits, of up to 80 percent of the withholdings of the
38 business or up to 50 percent of the estimated tax of the partners of an
39 eligible partnership if the grant promotes smart growth and the goals,
40 strategies, and policies of the State Development and Redevelopment
41 Plan, established pursuant to section 5 of P.L.1985, c.398 (C.52:18A-
42 200), as determined by and based upon criteria promulgated by the
43 authority following consultation with the Office of State Planning in
44 the Department of State.

45 c. The term of the grant shall not exceed 10 years.

46 d. At the discretion of the authority, the grant may apply to new
47 employees or partners in eligible positions created during the base
48 years, and during the remainder of the term of the grant.

1 e. Within 180 days of the date of enactment of P.L.2015, c.194
2 (C.34:1B-137.1 et al.), a business that was approved for a grant prior
3 to the enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.), may direct
4 the authority to convert the grant to a tax credit against the tax liability
5 otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
6 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3),
7 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
8 direction to convert the grant to a tax credit shall be irrevocable. An
9 approved tax credit shall be issued in the manner and for the amounts
10 as follows and may only be applied in the tax period for which they are
11 issued and shall not be carried forward:

12 (1) For grants accrued but not paid during calendar years 2008
13 through 2013, the tax credit shall be equal to an approved amount and
14 shall be issued in five installments over a five-year period beginning in
15 the 2017 tax accounting or privilege period of the business or tax
16 credit transferee in the following percentages: in year one, five percent
17 of the accrued amount; in year two, 20 percent of the accrued amount;
18 in year three, 25 percent of the accrued amount; in year four, 25
19 percent of the accrued amount; in year five, 25 percent of the accrued
20 amount. To the extent any amount in this paragraph has not been
21 approved by the authority by the commencement of State fiscal year
22 2017, the aggregate tax credit that would have been issued in State
23 fiscal year 2017 shall be issued in the year the amount is approved and
24 the five-year period shall commence in that fiscal year;

25 (2) For a grant accrued but not paid during calendar year 2014, the
26 tax credit shall be equal to any approved amount and shall be issued in
27 four equal installments over a four-year period beginning in the 2019
28 tax accounting or privilege period of the business or tax credit
29 transferee;

30 (3) For a grant accrued but not paid during calendar year 2015, the
31 tax credit shall be equal to any approved amount and shall be issued in
32 four equal installments over a four-year period beginning in the 2019
33 tax accounting or privilege period of the business or tax credit
34 transferee;

35 (4) For a grant accrued but not paid during calendar year 2016, the
36 tax credit shall be equal to any approved amount and shall be issued in
37 three equal installments over a three-year period beginning in the 2020
38 tax accounting or privilege period of the business or tax credit
39 transferee;

40 (5) For a grant accrued but not paid during calendar year 2017, the
41 tax credit shall be equal to any approved amount and shall be issued in
42 three equal installments over a three-year period beginning in the 2020
43 tax accounting or privilege period of the business or tax credit
44 transferee;

45 (6) For a grant accrued but not paid during calendar year 2018, the
46 tax credit shall be equal to any approved amount and shall be issued in
47 two equal installments over a two-year period beginning in the 2022

1 tax accounting or privilege period of the business or tax credit
2 transferee;

3 (7) For a grant accrued but not paid during calendar year 2019, the
4 tax credit shall be equal to any approved amount and shall be issued in
5 two equal installments over a two-year period beginning in the 2022
6 tax accounting or privilege period of the business or tax credit
7 transferee;

8 (8) For a grant accrued but not paid during calendar year 2020, the
9 tax credit shall be equal to any approved amount and shall be issued in
10 two equal installments over a two-year period beginning in the 2023
11 tax accounting or privilege period of the business or tax credit
12 transferee;

13 (9) For a grant accrued but not paid during calendar year 2021, the
14 tax credit shall be equal to any approved amount and shall be issued in
15 two equal installments over a two-year period beginning in the 2023
16 tax accounting or privilege period of the business or tax credit
17 transferee;

18 (10) For a grant accrued but not paid during calendar year 2022,
19 the tax credit shall be equal to any approved amount and shall be paid
20 in two equal installments over a two-year period beginning in the 2023
21 tax accounting or privilege period of the business or tax credit
22 transferee;

23 (11) For a grant accrued but not paid during calendar year 2023,
24 the tax credit shall be equal to any approved amount and shall be
25 issued in two equal installments over a two-year period beginning in
26 the 2023 tax accounting or privilege period of the business or tax
27 credit transferee;

28 (12) For a grant accrued but not paid during calendar year 2024,
29 the tax credit shall be equal to any approved amount and shall be
30 issued in the 2025 tax accounting or privilege period of the business or
31 tax credit transferee; and

32 (13) For a grant accrued but not paid during calendar year 2025,
33 the tax credit shall be equal to any approved amount and shall be
34 issued in the 2025 tax accounting or privilege period of the business or
35 tax credit transferee.

36 f. The amount of the credit allowed pursuant to this section shall
37 be applied against the tax otherwise due under section 5 of P.L.1945,
38 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2
39 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
40 N.J.S.17B:23-5, prior to all other credits and payments. If the credit
41 exceeds the amount of tax liability otherwise due from a business that
42 pays taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
43 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
44 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, that amount of
45 excess shall be an overpayment for the purposes of R.S.54:49-15,
46 provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1)
47 shall not apply.

1 g. (1) A business that does not pay taxes under section 5 of
2 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
3 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
4 15), or N.J.S.17B:23-5 may apply to the executive director of the
5 authority for a tax credit transfer certificate, covering one or more
6 years.

7 (2) A business that has received a tax credit pursuant to subsection
8 e. of this section, which credit exceeds the amount of the tax liability
9 otherwise due, may apply to the executive director of the authority for
10 a tax credit transfer certificate, covering one or more years.

11 (3) Upon the executive director's approval of an application for a
12 tax credit transfer certificate, the division shall review and issue the tax
13 credit transfer certificate. The tax credit transfer certificate, upon
14 receipt thereof by the business, may be sold or assigned, in full or in
15 part, in an amount not less than \$100,000, or the amount of the
16 refundable tax credit issued if less than \$100,000, of tax credits to any
17 other person that may have a tax liability pursuant to section 5 of
18 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
19 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
20 15), or N.J.S.17B:23-5. The tax credit transfer certificate provided to
21 the business shall include a statement waiving the business's right to
22 claim that amount of the credit against the taxes that the business has
23 elected to sell or assign. The sale or assignment of any amount of a tax
24 credit transfer certificate allowed under this section shall not be
25 exchanged for consideration received by the business of less than 75
26 percent of the transferred credit amount before considering any further
27 discounting to present value which shall be permitted. Any amount of
28 a tax credit transfer certificate used by a purchaser or assignee against
29 a tax liability shall be subject to the same privileges, limitations, and
30 conditions that apply to the use of the credit by the business that
31 originally applied for and was allowed the tax credit, including treating
32 the amount of excess as an overpayment under subsection f. of this
33 section. The tax credit transferee may not transfer its tax credit to any
34 other party.

35 h. Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before March 31, 2024, to waive, for the period
39 beginning on July 1, 2022 and ending on March 31, 2024, the
40 requirement that a full-time employee who is employed by the
41 business shall spend at least 60 percent of the employee's time at the
42 qualified business facility; provided, however, that a business that
43 makes such an election shall satisfy the following criteria:

44 (1) any full-time employee employed by the business shall spend at
45 least 10 percent of the employee's time at the qualified business
46 facility for the 2023 tax period ¹and, if elected by the business, the
47 2024 tax period¹ through March 31, 2024; and

1 (2) following the receipt by the business of its tax credit certificate
2 or tax credit transfer certificate for the 2022 tax period, the business
3 shall make a payment of an amount equal to five percent of the amount
4 of tax credit the business receives for the 2022 tax period through
5 March 31, 2024, which payment shall be made to the authority, and
6 which payment the authority shall hold and make available for the
7 provision of loans, guarantees, equity investments, and grants, or other
8 forms of financing to support small business and downtown or
9 commercial corridor activation activities within the municipality in
10 which the qualified business facility is located, as may be designated
11 by the chief executive officer of the authority. ¹Such funds shall be
12 deployed by the authority within 12 months of the authority's receipt
13 of the funds, and the authority shall issue a report each fiscal year to
14 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
15 19.1), detailing how the funds were distributed.¹

16 i. ¹[For the period] Notwithstanding the provisions of section 2
17 of P.L.1996, c.26 (C.34:1B-125) or any other law or regulation to the
18 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
19 periods, ¹[the authority may authorize]¹ a business ²located outside
20 an enhanced area or government-restricted municipality, as those
21 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337)²
22 that has entered into an ¹[amended]¹ incentive agreement with the
23 authority ¹may elect¹ to waive the requirement that a full-time
24 employee who is employed by the business shall spend at least 60
25 percent of the employee's time at the qualified business facility;
26 provided, however, that a business that makes this election shall satisfy
27 the following criteria:

28 (1) ²[¹(a) for a qualified business facility located in an enhanced
29 area or government-restricted municipality, as those terms are defined
30 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
31 employee employed by the business shall spend at least 50 percent of
32 the employee's time at the qualified business facility during the tax
33 period;

34 (b)² for a qualified business facility located ²[anywhere else in the
35 State] outside an enhanced area or government-restricted
36 municipality, as those terms are defined in section 69 of P.L.2020,
37 c.156 (C.34:1B-337)^{2,1} any full-time employee employed by the
38 business shall spend at least 40 percent of the employee's time at the
39 qualified business facility during the tax period; ¹[and]¹

40 (2) ¹[following the receipt by the business of its tax credit
41 certificate or tax credit transfer certificate for the tax period, the
42 business shall make a payment of an amount equal to 20 percent of the
43 amount of the tax credit the business receives for the tax period, which
44 payment shall be made to the municipal affordable housing trust fund
45 in the municipality in which the qualified business facility is located]
46 the business shall extend by two years the time it is required to

1 maintain the project at a location in New Jersey beyond the time set
2 forth in the incentive agreement; and

3 (3) at the time the business submits its tax credit certificate
4 certification for the tax period, the business shall make a non-
5 refundable payment of an amount equal to 10 percent of the amount of
6 the maximum annual tax credit that the business is eligible to receive
7 for the tax period, which payment shall be made to the authority, and
8 which payment the authority shall hold and make available for the
9 provision of loans, guarantees, equity investments, and grants, or other
10 forms of financing to support small business and downtown or
11 commercial corridor activation activities within enhanced areas or
12 government-restricted municipalities, as those terms are defined in
13 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
14 the chief executive officer of the authority. Such funds shall be
15 deployed by the authority within 12 months of the authority's receipt
16 of the funds, and the authority shall issue a report each fiscal year to
17 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), detailing how the funds were distributed¹.

19 j. ¹【The authority, in consultation with the Division of Taxation
20 in the Department of the Treasury, may authorize a tax certificate
21 holder to carry forward tax credits for an additional period specified by
22 the authority, subject to the provisions of this section. The】
23 Notwithstanding the provisions of any law to the contrary, the¹ credit
24 amount may ¹first¹ be taken by the tax certificate holder for the tax
25 period for which it was issued ¹, for the tax period in which it was
26 issued,¹ or ¹【may be carried forward for use by the tax certificate
27 holder in any of the next 20 successive tax periods, and shall expire
28 thereafter】 in any tax period during the time the business is required to
29 maintain the project at a location in New Jersey, as set forth in the
30 incentive agreement¹ . The tax certificate holder may transfer the tax
31 credit amount on or after the date of issuance ¹【or at any time after the
32 date of issuance】¹ for use by the transferee in the tax period for which
33 it was issued ¹, for the tax period in which it was issued,¹ or ¹【within a
34 period to be determined by the authority, in consultation with the
35 Division of Taxation, but not to exceed the 20 tax periods immediately
36 succeeding the tax period for which it was issued. In the case of a tax
37 certificate received after the end of the tax period for which the tax
38 certificate was issued, whether by transfer or original issuance, a tax
39 certificate holder or transferee shall not be required to amend the tax
40 return for the tax period for which the tax certificate was issued or any
41 successive tax period to first apply the credit】 in any of the next three
42 successive tax periods¹ . The tax certificate holder or transferee may
43 first ¹【claim】 use¹ the credit ¹【in any tax period on or after the date of
44 issuance】 against tax liabilities in the tax period in which it was issued
45 or in a succeeding tax period, as authorized in this subsection, without
46 the need for amending the tax return for the tax period for which the

1 credit was issued¹ , subject to the ¹carry-forward provision in]
2 provisions of¹ this section. ¹Notwithstanding the foregoing, no more
3 than the amount of tax credits equal to the total credit amount, divided
4 by the number of years in which the credits may be claimed, not
5 including carried-forward use, may be taken in any tax period.]¹
6 (cf: P.L.2023, c.261, s.2)

7
8 3. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to read
9 as follows:

10 3. a. (1) A business, upon application to and approval from the
11 authority, shall be allowed a credit of 100 percent of its capital
12 investment, made after the effective date of P.L.2007, c.346 (C.34:1B-
13 207 et seq.) but prior to its submission of documentation pursuant to
14 subsection c. of this section, in a qualified business facility within an
15 eligible municipality, pursuant to the restrictions and requirements of
16 this section. To be eligible for any tax credits authorized under this
17 section, a business shall demonstrate to the authority, at the time of
18 application, that the State's financial support of the proposed capital
19 investment in a qualified business facility will yield a net positive
20 benefit to both the State and the eligible municipality. The value of all
21 credits approved by the authority pursuant to P.L.2007, c.346
22 (C.34:1B-207 et seq.) shall not exceed \$1,750,000,000, except as may
23 be increased by the authority as set forth in paragraph (5) of subsection
24 a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3) and section 6 of
25 P.L.2010, c.57 (C.34:1B-209.4).

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

33 (3) A business that is a tenant in a qualified business facility, the
34 owner of which has made or acquired capital investments in the
35 facility totaling not less than \$50,000,000, shall occupy a leased area
36 of the qualified business facility that represents at least \$17,500,000 of
37 the capital investment in the facility at which the tenant business and
38 up to two other tenants in the qualified business facility shall employ
39 not fewer than 250 full-time employees in the aggregate to be eligible
40 for a credit under this section. The amount of capital investment in a
41 facility that a leased area represents shall be equal to that percentage of
42 the owner's total capital investment in the facility that the percentage
43 of net leasable area leased by the tenant is of the total net leasable area
44 of the qualified business facility. Capital investments made by a tenant
45 shall be deemed to be included in the calculation of the capital
46 investment made or acquired by the owner, but only to the extent
47 necessary to meet the owner's minimum capital investment of
48 \$50,000,000. Capital investments made by a tenant and not allocated

1 to meet the owner's minimum capital investment threshold of
2 \$50,000,000 shall be added to the amount of capital investment
3 represented by the tenant's leased area in the qualified business
4 facility.

5 (4) A business shall not be allowed tax credits under this section if
6 the business participates in a business employment incentive
7 agreement, pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.), relating
8 to the same capital and employees that qualify the business for this
9 credit, or if the business receives assistance pursuant to P.L.1996, c.25
10 (C.34:1B-112 et seq.). A business that is allowed a tax credit under
11 this section shall not be eligible for incentives authorized pursuant to
12 P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for
13 a tax credit under this section, based upon its capital investment and
14 the employment of full-time employees, if that capital investment or
15 employment was the basis for which a grant was provided to the
16 business pursuant to the "InvestNJ Business Grant Program Act,"
17 P.L.2008, c.112 (C.34:1B-237 et seq.).

18 (5) Full-time employment for an accounting or a privilege period
19 shall be determined as the average of the monthly full-time
20 employment for the period.

21 (6) The capital investment of the owner of a qualified business
22 facility is that percentage of the capital investment made or acquired
23 by the owner of the building that the percentage of net leasable area of
24 the qualified business facility not leased to tenants is of the total net
25 leasable area of the qualified business facility.

26 (7) A business shall be allowed a tax credit of 100 percent of its
27 capital investment, made after the effective date of P.L.2011, c.89 but
28 prior to its submission of documentation pursuant to subsection c. of
29 this section, in a qualified business facility that is part of a mixed use
30 project, provided that (a) the qualified business facility represents at
31 least \$17,500,000 of the total capital investment in the mixed use
32 project, (b) the business employs not fewer than 250 full-time
33 employees in the qualified business facility, and (c) the total capital
34 investment in the mixed use project of which the qualified business
35 facility is a part is not less than \$50,000,000. The allowance of credits
36 under this paragraph shall be subject to the restrictions and
37 requirements, to the extent that those are not inconsistent with the
38 provisions of this paragraph, set forth in paragraphs (1) through (6) of
39 this subsection, including, but not limited to, the requirement that the
40 business shall demonstrate to the authority, at the time of application,
41 that the State's financial support of the proposed capital investment in
42 a qualified business facility will yield a net positive benefit to both the
43 State and the eligible municipality.

44 (8) In determining whether a proposed capital investment will
45 yield a net positive benefit, the authority shall not consider the transfer
46 of an existing job from one location in the State to another location in
47 the State as the creation of a new job, unless (a) the business proposes
48 to transfer existing jobs to a municipality in the State as part of a

1 consolidation of business operations from two or more other locations
2 that are not in the same municipality whether in-State or out-of-State,
3 or (b) the business's chief executive officer, or equivalent officer,
4 submits a certification to the authority indicating that the existing jobs
5 are at risk of leaving the State and that the business's chief executive
6 officer, or equivalent officer, has reviewed the information submitted
7 to the authority and that the representations contained therein are
8 accurate, and the business intends to employ not fewer than 500 full-
9 time employees in the qualified business facility. In the event that this
10 certification by the business's chief executive officer, or equivalent
11 officer, is found to be willfully false, the authority may revoke any
12 award of tax credits in their entirety, which revocation shall be in
13 addition to any other criminal or civil penalties that the business and
14 the officer may be subject to. When considering an application
15 involving intra-State job transfers, the authority shall require the
16 company to submit the following information as part of its application:
17 a full economic analysis of all locations under consideration by the
18 company; all lease agreements, ownership documents, or substantially
19 similar documentation for the business's current in-State locations; and
20 all lease agreements, ownership documents, or substantially similar
21 documentation for the potential out-of-State location alternatives, to
22 the extent they exist. Based on this information, and any other
23 information deemed relevant by the authority, the authority shall
24 independently verify and confirm, by way of making a factual finding
25 by separate vote of the authority's board, the business's assertion that
26 the jobs are actually at risk of leaving the State, before a business may
27 be awarded any tax credits under this section.

28 b. (1) If applications under this section have been received by the
29 authority prior to the effective date of the "New Jersey Economic
30 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
31 then, to the extent that there remains sufficient financial authorization
32 for the award of a tax credit, the authority is authorized to consider
33 those applications and to make awards of tax credits to eligible
34 applicants, provided that the authority shall take final action on those
35 applications no later than December 31, 2013.

36 (2) A business shall apply for the credit under this section prior to
37 the effective date of the "New Jersey Economic Opportunity Act of
38 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and shall submit its
39 documentation for approval of its credit amount no later than
40 December 31, 2023.

41 (3) If a business has submitted an application under this section
42 and that application has not been approved for any reason, the lack of
43 approval shall not serve to prejudice in any way the consideration of a
44 new application as may be submitted for the qualified business facility
45 for the provision of incentives offered pursuant to the "New Jersey
46 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p
47 et al.).

1 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-207
2 et seq.) for applications submitted to and approved by the authority
3 prior to the effective date of the "New Jersey Economic Opportunity
4 Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), shall be
5 administered by the authority in the manner established prior to that
6 date.

7 (5) With respect to an application received by the authority prior to
8 the effective date of the "New Jersey Economic Opportunity Act of
9 2013," P.L.2013, c.161 (C.52:27D-489p et al.) for a qualified business
10 facility that is located on or adjacent to the campus of an acute care
11 medical facility, (a) the minimum number of full-time employees
12 required for eligibility under the program may be employed by any
13 number of tenants or other occupants of the facility, in the aggregate,
14 and the initial satisfaction of the requirement following completion of
15 the project shall be deemed to satisfy the employment requirements of
16 the program in all respects, and (b) if the capital investment in the
17 facility exceeds \$100,000,000, the determination of the net positive
18 benefit yield shall be based on the benefits generated during a period
19 of up to 30 years following the completion of the project, as
20 determined by the authority.

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

34 The credit amount that may be taken for a tax period of the
35 business that exceeds the final liabilities of the business for the tax
36 period may be carried forward for use by the business in the next 20
37 successive tax periods, and shall expire thereafter, provided that the
38 value of all credits approved by the authority against tax liabilities
39 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year
40 shall not exceed \$260,000,000.

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

45 A business may elect to suspend its obligations for the 2020, 2021,
46 2022, **[or]** 2023, or 2024 tax period, or any combination thereof, due
47 to the COVID-19 pandemic, provided that the business shall make
48 such election in writing to the authority before the issuance of the tax

1 credit for the corresponding tax year and such suspension shall extend
2 the term of the eligibility period by a corresponding amount of time.
3 The authority shall modify the approval letter, and the business shall
4 execute the modification within the time period provided by the
5 authority. The modification shall provide that the failure to submit the
6 annual report due to the suspension shall not be a forfeiture or an
7 uncertified tax period.

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

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

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

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

1 Statewide workforce to the threshold levels required by this paragraph
2 has been reviewed and approved by the authority, for which tax period
3 and each subsequent tax period the full amount of the credit shall be
4 allowed.

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

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

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

32 (5) Following the termination of the public health emergency
33 declared by the Governor pursuant to Executive Order No. 103 of
34 2020, as extended, a business that has entered into an incentive
35 agreement may elect, before March 31, 2024, to waive, for the period
36 beginning on July 1, 2022 and ending on March 31, 2024, the
37 requirement that a full-time employee who is employed by the
38 business shall spend at least 60 percent of the employee's time at the
39 qualified business facility; provided, however, that a business that
40 makes such an election shall satisfy the following criteria:

41 (i) any full-time employee employed by the business shall spend
42 at least 10 percent of the employee's time at the qualified business
43 facility for the 2023 tax period ¹and, if elected by the business, the
44 2024 tax period¹ through March 31, 2024; and

45 (ii) following the receipt by the business of its tax credit certificate
46 or tax credit transfer certificate for the 2022 tax period, the business
47 shall make a payment of an amount equal to five percent of the amount
48 of tax credit the business receives for the 2022 tax period through

1 March 31, 2024, which payment shall be made to the authority, and
2 which payment the authority shall hold and make available for the
3 provision of loans, guarantees, equity investments, and grants, or other
4 forms of financing to support small business and downtown or
5 commercial corridor activation activities within the municipality in
6 which the qualified business facility is located, as may be designated
7 by the chief executive officer of the authority. ¹Such funds shall be
8 deployed by the authority within 12 months of the authority's receipt
9 of the funds, and the authority shall issue a report each fiscal year to
10 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
11 19.1), detailing how the funds were distributed.¹

12 (6) ¹[For the period] Notwithstanding the provisions of section 2
13 of P.L.2007, c.346 (C.34:1B-208) or any other law or regulation to the
14 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
15 periods, ¹[the authority may authorize]¹ a business ²located outside
16 an enhanced area or government-restricted municipality, as those
17 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337)²
18 that has entered into an ¹[amended]¹ incentive agreement with the
19 authority ¹may elect¹ to waive the requirement that a full-time
20 employee who is employed by the business shall spend at least 60
21 percent of the employee's time at the qualified business facility;
22 provided, however, that a business that makes this election shall satisfy
23 the following criteria:

24 (i) ²[¹(a) for a qualified business facility located in an enhanced
25 area or government-restricted municipality, as those terms are defined
26 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
27 employee employed by the business shall spend at least 50 percent of
28 the employee's time at the qualified business facility during the tax
29 period;

30 (b)² for a qualified business facility located ²[anywhere else in the
31 State] outside an enhanced area or government-restricted
32 municipality, as those terms are defined in section 69 of P.L.2020,
33 c.156 (C.34:1B-337)^{2, 1} any full-time employee employed by the
34 business shall spend at least 40 percent of the employee's time at the
35 qualified business facility during the tax period; ¹[and]¹

36 (ii) ¹[following the receipt by the business of its tax credit
37 certificate or tax credit transfer certificate for the tax period, the
38 business shall make a payment of an amount equal to 20 percent of the
39 amount of the tax credit the business receives for the tax period, which
40 payment shall be made to the municipal affordable housing trust fund
41 in the municipality in which the qualified business facility is located]
42 the business shall extend by two years the time it is required to
43 maintain the project at a location in New Jersey beyond the time set
44 forth in the incentive agreement; and

45 (iii) at the time the business submits its tax credit certificate
46 certification for the tax period, the business shall make a non-
47 refundable payment of an amount equal to 10 percent of the amount of

1 the maximum annual tax credit that the business is eligible to receive
2 for the tax period, which payment shall be made to the authority, and
3 which payment the authority shall hold and make available for the
4 provision of loans, guarantees, equity investments, and grants, or other
5 forms of financing to support small business and downtown or
6 commercial corridor activation activities within enhanced areas or
7 government-restricted municipalities, as those terms are defined in
8 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
9 the chief executive officer of the authority. Such funds shall be
10 deployed by the authority within 12 months of the authority's receipt
11 of the funds, and the authority shall issue a report each fiscal year to
12 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
13 19.1), detailing how the funds were distributed¹.

14 (7) ¹【The authority, in consultation with the Division of Taxation
15 in the Department of the Treasury, may authorize a tax certificate
16 holder to carry forward tax credits for an additional period specified by
17 the authority, subject to the provisions of this section. The】
18 Notwithstanding the provisions of any law to the contrary, the¹ credit
19 amount may ¹first¹ be taken by the tax certificate holder for the tax
20 period for which it was issued ¹, for the tax period in which it was
21 issued,¹ or ¹【may be carried forward for use by the tax certificate
22 holder in any of the next 20 successive tax periods, and shall expire
23 thereafter】 in any tax period during the time the business is required to
24 maintain the project at a location in New Jersey, as set forth in the
25 incentive agreement¹. The tax certificate holder may transfer the tax
26 credit amount on or after the date of issuance ¹【or at any time after the
27 date of issuance】¹ for use by the transferee in the tax period for which
28 it was issued ¹, for the tax period in which it was issued,¹ or ¹【within a
29 period to be determined by the authority, in consultation with the
30 Division of Taxation, but not to exceed the 20 tax periods immediately
31 succeeding the tax period for which it was issued. In the case of a tax
32 certificate received after the end of the tax period for which the tax
33 certificate was issued, whether by transfer or original issuance, a tax
34 certificate holder or transferee shall not be required to amend the tax
35 return for the tax period for which the tax certificate was issued or any
36 successive tax period to first apply the credit】 in any of the next three
37 successive tax periods¹. The tax certificate holder or transferee may
38 first ¹【claim】 use¹ the credit ¹against tax liabilities¹ in ¹【any】 the¹ tax
39 period ¹【on or after the date of issuance】 in which it was issued or in a
40 succeeding tax period, as authorized in this subsection, without being
41 required to amend the tax return for the tax period for which the credit
42 was issued¹, subject to the ¹【carry-forward provision in】 provisions
43 of¹ this section. Notwithstanding the foregoing, no more than the
44 amount of tax credits equal to the total credit amount, divided by the
45 ¹【number of】 duration of the tax credit term, in¹ years ¹【in which the

1 credits may be claimed, not including carried-forward use¹ , may be
2 taken in any tax period.

3 ¹(8) Notwithstanding the provisions of this subsection or
4 any law or regulation to the contrary, a business that has elected to
5 modify its obligations under an incentive agreement pursuant to
6 P.L.2022, c.134 may request, before December 31, 2024, to reduce the
7 number of Statewide employees specified in the incentive agreement,
8 provided the business certifies that all Statewide employment specified
9 in the incentive agreement is assigned to the qualified business facility
10 and the business is requesting to reduce the number of new or retained
11 full-time jobs specified in the incentive agreement commencing with
12 the 2020 tax period and, at the discretion of the business, whether the
13 reduction shall continue for each subsequent tax period remaining in
14 the eligibility period.¹

15 e. (1) The Executive Director of the New Jersey Economic
16 Development Authority, in consultation with the Director of the
17 Division of Taxation in the Department of the Treasury, shall adopt
18 rules in accordance with the "Administrative Procedure Act,"
19 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement
20 P.L.2007, c.346 (C.34:1B-207 et seq.), including, but not limited to:
21 examples of and the determination of capital investment; the
22 enumeration of eligible municipalities; specific delineation of urban
23 transit hubs; the determination of the limits, if any, on the expense or
24 type of furnishings that may constitute capital improvements; the
25 promulgation of procedures and forms necessary to apply for a credit,
26 including the enumeration of the certification procedures and
27 allocation of tax credits for different phases of a qualified business
28 facility or mixed use project; and provisions for credit applicants to be
29 charged an initial application fee, and ongoing service fees, to cover
30 the administrative costs related to the credit.

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

37 f. A business that has executed an approval letter may request
38 before December 31, **[2023]** 2024 to terminate the award,
39 commencing with the 2020 tax period or any subsequent tax period
40 ending on or before December 31, **[2023]** 2024, due to the COVID-19
41 public health emergency; provided that the business shall submit a
42 certification from the business's chief executive officer or equivalent
43 officer stating that the termination is due, directly or indirectly, to the
44 public health emergency and describing the impact of the public health
45 emergency on the business. All credits for the tax period in which the
46 termination is requested and all subsequent tax periods shall be
47 forfeited, provided however that any credits of the business shall

1 remain unaffected. A termination agreement executed by the authority
2 and business shall not be amended.

3 (cf: P.L.2023, c.261, s.3)

4

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

7 6. a. (1) The combined value of all credits approved by the
8 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
9 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013 shall
10 not exceed \$1,750,000,000, except as may be increased by the
11 authority as set forth in paragraph (5) of subsection a. of section 35 of
12 P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the "New
13 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
14 (C.52:27D-489p et al.), there shall be no monetary cap on the value of
15 credits approved by the authority attributable to the program pursuant
16 to the "New Jersey Economic Opportunity Act of 2013," P.L.2013,
17 c.161 (C.52:27D-489p et al.).

18 (2) (Deleted by amendment, P.L.2013, c.161)

19 (3) (Deleted by amendment, P.L.2013, c.161)

20 (4) (Deleted by amendment, P.L.2013, c.161)

21 (5) (Deleted by amendment, P.L.2013, c.161)

22 b. (1) A business shall submit an application for tax credits prior
23 to July 1, 2019. The authority shall not approve an application for tax
24 credits unless the application was submitted prior to July 1, 2019.

25 (2) (a) A business shall submit its documentation indicating that it
26 has met the capital investment and employment requirements and all
27 conditions of approvals specified in the incentive agreement for
28 certification of its tax credit amount, to the authority's satisfaction,
29 within three years following the date of approval of its application by
30 the authority. The authority shall have the discretion to grant two six-
31 month extensions of this deadline. If the authority accepts the
32 documentation, the authority shall request that the Division of
33 Taxation in the Department of the Treasury issue a tax credit based on
34 the approved documentation to be used by the business during the
35 eligibility period. Except as provided in subparagraphs (b) and (c) of
36 this paragraph, in no event shall the incentive effective date occur later
37 than four years following the date of approval of an application by the
38 authority.

39 (b) As of the effective date of P.L.2017, c.314, a business which
40 applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149
41 (C.34:1B-242 et al.), shall submit its documentation to the authority no
42 later than July 28, 2019, indicating that it has met the capital
43 investment and employment requirements specified in the incentive
44 agreement for certification of its tax credit amount.

45 (c) If the Governor declares an emergency, then the chief
46 executive officer of the authority shall have the discretion to grant an
47 extension for the duration of the emergency and the board of the
48 authority, upon recommendation of the chief executive officer, may

1 grant two additional six-month extensions; provided that (i) the
2 extensions are due to the economic disruption caused by the
3 emergency; (ii) the project is delayed due to unforeseeable acts related
4 to the project beyond the eligible business's control and without its
5 fault or negligence; (iii) the eligible business is using best efforts, with
6 all due diligence, to proceed with the completion of the project and the
7 submission of the certification; and (iv) the eligible business has made,
8 and continues to make, all reasonable efforts to prevent, avoid,
9 mitigate, and overcome the delay.

10 (3) Full-time employment for an accounting or privilege period
11 shall be determined as the average of the monthly full-time
12 employment for the period.

13 (4) A business seeking a credit for a mega project shall apply for
14 the credit within four years after the effective date of the "New Jersey
15 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p
16 et al.).

17 c. (1) In conducting its annual review, the authority may require
18 a business to submit any information determined by the authority to be
19 necessary and relevant to its review.

20 **【The credit amount for any tax period for which the documentation**
21 **of a business's credit amount remains uncertified as of a date three**
22 **years after the closing date of that period shall be forfeited, although**
23 **credit amounts for the remainder of the years of the eligibility period**
24 **shall remain available to it.】**

25 The credit amount may be taken by the tax certificate holder for
26 the tax period for which it was issued or may be carried forward for
27 use by the tax certificate holder in any of the next 20 successive tax
28 periods, and shall expire thereafter. The tax certificate holder may
29 transfer the tax credit amount on or after the date of issuance or at any
30 time **【within three years of】** after the date of issuance for use by the
31 transferee in the tax period for which it was issued or in any of the
32 next 20 successive tax periods. In the case of a tax certificate received
33 after the end of the tax period for which the tax certificate was issued,
34 whether by transfer or original issuance, a tax certificate holder or
35 transferee shall not be required to amend the tax return for the tax
36 period ¹【to first apply】 if¹ the credit ¹【. The tax certificate holder or
37 transferee may first claim the credit】 is first applied¹ in ¹【any】 the¹
38 tax period ¹【that is on or after the date of issuance】 in which it was
39 issued or in a succeeding tax period, as authorized in subsection k. of
40 this section¹ , ¹and¹ subject to the carry-forward provision in this
41 section. Notwithstanding the foregoing, no more than the amount of
42 tax credits equal to the total credit amount ^{1,1} divided by the duration
43 of the eligibility period ^{1,1} in years ^{1,1} may be taken in any tax period.

44 A business may elect to suspend its obligations for the 2020, 2021,
45 2022, **【or】** 2023, or 2024 tax period, or any combination thereof, due
46 to the COVID-19 pandemic, provided that the business shall make
47

1 such election in writing to the authority before the issuance of the tax
2 credit for the corresponding tax year and such suspension shall extend
3 the term of the eligibility period by a corresponding amount of time.
4 The authority shall amend the incentive agreement, and the business
5 shall execute the amended incentive agreement within the time period
6 provided by the authority. The amended incentive agreement shall
7 provide that the failure to submit the annual report due to the
8 suspension shall not be a forfeiture or an uncertified tax period.

9 (2) Credits granted to a partnership shall be passed through to the
10 partners, members, or owners, respectively, pro-rata or pursuant to an
11 executed agreement among the partners, members, or owners
12 documenting an alternate distribution method provided to the Director
13 of the Division of Taxation in the Department of the Treasury
14 accompanied by any additional information as the director may
15 require.

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

21 (4) In order to respond to the profoundly negative impact of the
22 COVID-19 pandemic on the State's economy and finances, the
23 authority may request a tax certificate holder, at the tax certificate
24 holder's discretion, to defer the application of a credit amount allowed
25 pursuant to this section to a later tax period. Upon request, the
26 authority and the tax certificate holder shall negotiate the terms of the
27 deferral, which shall hold the certificate holder harmless, which will be
28 made in the incentive agreement or as an addendum to the incentive
29 agreement.

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

41 (2) If, in any tax period, the number of full-time employees
42 employed by the business at the qualified business facility located
43 within a qualified incentive area drops below 80 percent of the number
44 of new and retained full-time jobs specified in the incentive
45 agreement, then the business shall forfeit its credit amount for that tax
46 period and each subsequent tax period, until the first tax period for
47 which documentation demonstrating the restoration of the number of
48 full-time employees employed by the business at the qualified business

1 facility to 80 percent of the number of jobs specified in the incentive
2 agreement.

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

9 (b) In connection with a regional distribution facility of foodstuffs,
10 the business entity or entities which own or lease the facility shall
11 qualify as a business regardless of: (i) the type of the business entity or
12 entities which own or lease the facility; (ii) the ownership or leasing of
13 the facility by more than one business entity; or (iii) the ownership of
14 the business entity or entities which own or lease the facility. The
15 ownership or leasing, whether by members, shareholders, partners, or
16 other owners of the business entity or entities, shall be treated as
17 ownership or leasing by affiliates. The members, shareholders,
18 partners, or other ownership or leasing participants and others that are
19 tenants in the facility shall be treated as affiliates for the purpose of
20 counting the full-time employees and capital investments in the
21 facility. The business entity or entities may distribute credits to
22 members, shareholders, partners, or other ownership or leasing
23 participants in accordance with their respective interests. If the
24 business entity or entities or their members, shareholders, partners, or
25 other ownership or leasing participants lease space in the facility to
26 members, shareholders, partners, or other ownership or leasing
27 participants or others as tenants in the facility, the leases shall be
28 treated as a lease to an affiliate, and the business entity or entities shall
29 not be subject to forfeiture of the credits. For the purposes of this
30 section, leasing shall include subleasing and tenants shall include
31 subtenants.

32 (4) (a) For a project located within a Garden State Growth Zone,
33 if, in any tax period, the number of full-time employees employed by
34 the business at the qualified business facility located within a qualified
35 incentive area increases above the number of full-time employees
36 specified in the incentive agreement, then the business shall be entitled
37 to an increased base credit amount for that tax period and each
38 subsequent tax period, for each additional full-time employee added
39 above the number of full-time employees specified in the incentive
40 agreement, until the first tax period for which documentation
41 demonstrating a reduction of the number of full-time employees
42 employed by the business at the qualified business facility, at which
43 time the tax credit amount will be adjusted accordingly pursuant to this
44 section.

45 (b) For a project located within a Garden State Growth Zone which
46 qualifies under the "Municipal Rehabilitation and Economic Recovery
47 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a

1 Tourism District as established pursuant to section 5 of P.L.2011, c.18
2 (C.5:12-219) and regulated by the Casino Reinvestment Development
3 Authority, and which qualifies for a tax credit pursuant to
4 subsubparagraph (ii) of subparagraphs (a) through (e) of paragraph (6)
5 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in
6 any tax period the number of full-time employees employed by the
7 business at the qualified business facility located within a qualified
8 incentive area increases above the number of full-time employees
9 specified in the incentive agreement such that the business shall then
10 meet the minimum number of employees required in subparagraph (b),
11 (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of
12 P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the
13 total tax credit amount per full-time job by using the certified capital
14 investment of the project allowable under the applicable
15 subsubparagraph and the number of full-time jobs certified on the date
16 of the recalculation and applying those numbers to subparagraph (b),
17 (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of
18 P.L.2011, c.149 (C.34:1B-246), until the first tax period for which
19 documentation demonstrating a reduction of the number of full-time
20 employees employed by the business at the qualified business facility,
21 at which time the tax credit amount shall be adjusted accordingly
22 pursuant to this section.

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

29 (1) the business has satisfied all of its obligations underlying the
30 previous award of incentives or is compliant with section 4 of
31 P.L.2011, c.149 (C.34:1B-245); or

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

36 f. A business which has already applied for a tax credit incentive
37 award prior to the effective date of the "New Jersey Economic
38 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but
39 who has not yet been approved for the tax credits, or has not executed
40 an agreement with the authority, may proceed under that application or
41 seek to amend the application or reapply for a tax credit incentive
42 award for the same project or any part thereof for the purpose of
43 availing itself of any more favorable provisions of the program.

44 g. A business that has entered into an incentive agreement may
45 request before December 31, **[2023]** 2024 to terminate the incentive
46 agreement, commencing with the 2020 tax period or any subsequent
47 tax period ending on or before December 31, **[2023]** 2024, due to the
48 COVID-19 public health emergency; provided that the business shall

1 submit a certification from the business's chief executive officer or
2 equivalent officer stating that the termination is due, directly or
3 indirectly, to the public health emergency and describing the impact of
4 the public health emergency on the business. All credits for the tax
5 period in which the termination occurs and all subsequent tax periods
6 shall be forfeited, provided however that any credits of the business
7 shall remain unaffected. A termination agreement executed by the
8 authority and business shall not be amended.

9 h. A business that has entered into an incentive agreement may
10 request, before December 31, ~~2023~~ 2024, to reduce the number of
11 new or retained full-time jobs specified in the incentive agreement
12 based on a certification of the business of the eligible positions at the
13 qualified business facility commencing with the 2020 tax period and,
14 at the discretion of the business, whether the reduction shall continue
15 for each subsequent tax period remaining in the eligibility period,
16 provided that the business maintains the minimum number of new or
17 retained full-time jobs required to be eligible pursuant to subsection c.
18 of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in
19 employment shall first apply to the number of new full-time
20 employees, and then shall apply to the number of retained full-time
21 employees.

22 The authority shall calculate a new tax credit total amount for the
23 2020 tax period and the remainder of the eligibility period based on the
24 reduced employment and shall amend the incentive agreement to
25 reflect the recalculated award amount. In no event shall the
26 modification result in an increase in employment or tax credit amount.

27 i. Following the termination of the public health emergency
28 declared by the Governor pursuant to Executive Order No. 103 of
29 2020, as extended, a business that has entered into an incentive
30 agreement may elect, before March 31, 2024, to waive, for the period
31 beginning on July 1, 2022 and ending on March 31, 2024, the
32 requirement that a full-time employee who is employed by the
33 business shall spend at least 60 percent of the employee's time at the
34 qualified business facility; provided, however, that a business that
35 makes such an election shall satisfy the following criteria:

36 (1) any full-time employee employed by the business shall spend
37 at least 10 percent of the employee's time at the qualified business
38 facility for the 2023 tax period ¹and, if elected by the business, the
39 2024 tax period¹ through March 31, 2024; and

40 (2) following the receipt by the business of its tax credit certificate
41 or tax credit transfer certificate for the 2022 tax period, the business
42 shall make a payment of an amount equal to five percent of the amount
43 of tax credit the business receives for the 2022 tax period through
44 March 31, 2024, which payment shall be made to the authority, and
45 which payment the authority shall hold and make available for the
46 provision of loans, guarantees, equity investments, and grants, or other
47 forms of financing to support small business and downtown or
48 commercial corridor activation activities within the municipality in

1 which the qualified business facility is located, as may be designated
2 by the chief executive officer of the authority. ¹Such funds shall be
3 deployed by the authority within 12 months of the authority's receipt
4 of the funds, and the authority shall issue a report each fiscal year to
5 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
6 19.1), detailing how the funds were distributed.¹

7 j. ¹~~For the period~~ Notwithstanding the provisions of section 2
8 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation to the
9 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
10 periods, ¹~~the authority may authorize~~¹ a business ²located outside
11 an enhanced area or government-restricted municipality, as those
12 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337)²
13 that has entered into an ¹~~amended~~¹ incentive agreement with the
14 authority ¹may elect¹ to waive the requirement that a full-time
15 employee who is employed by the business shall spend at least 60
16 percent of the employee's time at the qualified business facility;
17 provided, however, that a business that makes this election shall satisfy
18 the following criteria:

19 (1) ²¹(a) for a qualified business facility located in an enhanced
20 area or government-restricted municipality, as those terms are defined
21 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
22 employee employed by the business shall spend at least 50 percent of
23 the employee's time at the qualified business facility during the tax
24 period;

25 (b)² for a qualified business facility located ²~~anywhere else in~~
26 the State] outside an enhanced area or government-restricted
27 municipality, as those terms are defined in section 69 of P.L.2020,
28 c.156 (C.34:1B-337)^{2,1} any full-time employee employed by the
29 business shall spend at least 40 percent of the employee's time at the
30 qualified business facility during the tax period; ¹~~and~~¹

31 (2) ¹~~following the receipt by the business of its tax credit~~
32 certificate or tax credit transfer certificate for the tax period, the
33 business shall make a payment of an amount equal to 20 percent of the
34 amount of the tax credit the business receives for the tax period, which
35 payment shall be made to the municipal affordable housing trust fund
36 in the municipality in which the qualified business facility is located]
37 the business shall extend by two years the term of its commitment
38 period beyond the time set forth in the incentive agreement; and

39 (3) at the time the business submits its tax credit certificate
40 certification for the tax period, the business shall make a non-
41 refundable payment of an amount equal to 10 percent of the amount of
42 the maximum annual tax credit that the business is eligible to receive
43 for the tax period, which payment shall be made to the authority, and
44 which payment the authority shall hold and make available for the
45 provision of loans, guarantees, equity investments, and grants, or other
46 forms of financing to support small business and downtown or
47 commercial corridor activation activities within enhanced areas or

1 government-restricted municipalities, as those terms are defined in
2 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
3 the chief executive officer of the authority. Such funds shall be
4 deployed by the authority within 12 months of the authority's receipt
5 of the funds, and the authority shall issue a report each fiscal year to
6 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
7 19.1), detailing how the funds were distributed¹.

8 k. ¹【The authority, in consultation with the Division of Taxation
9 in the Department of the Treasury, may authorize a tax certificate
10 holder to carry forward tax credits for an additional period specified by
11 the authority, subject to the provisions of this section. The】
12 Notwithstanding the provisions of any law to the contrary, the¹ credit
13 amount may ¹first¹ be taken by the tax certificate holder for the tax
14 period for which it was issued ¹, for the tax period in which it was
15 issued,¹ or ¹【may be carried forward for use by the tax certificate
16 holder in any of the next 20 successive tax periods, and shall expire
17 thereafter】 in any tax period during the commitment period set forth in
18 the incentive agreement¹ . The tax certificate holder may transfer the
19 tax credit amount on or after the date of issuance ¹【or at any time after
20 the date of issuance】¹ for use by the transferee in the tax period for
21 which it was issued ¹, for the tax period in which it was issued,¹ or
22 ¹【within a period to be determined by the authority, in consultation
23 with the Division of Taxation, but not to exceed the 20 tax periods
24 immediately succeeding the tax period for which it was issued. In the
25 case of a tax certificate received after the end of the tax period for
26 which the tax certificate was issued, whether by transfer or original
27 issuance, a tax certificate holder or transferee shall not be required to
28 amend the tax return for the tax period for which the tax certificate
29 was issued or any successive tax period to first apply the credit】 in any
30 of the next three successive tax periods¹ . The tax certificate holder or
31 transferee may first ¹【claim】 use¹ the credit ¹against tax liabilities¹ in
32 ¹【any】 the¹ tax period ¹【that is on or after the date of issuance】 in
33 which it was issued or in a succeeding tax period, as authorized in this
34 subsection, without being required to amend the tax return for the
35 taxpayer for which the credit was issued¹ , subject to the ¹【carry-
36 forward provision in】 provisions of¹ this section. Notwithstanding the
37 foregoing, no more than the amount of tax credits equal to the total
38 credit amount ¹,¹ divided by the duration of the ¹【eligibility period】
39 tax credit term,¹ in years ¹,¹ may be taken in any tax period.

40 ¹1. Notwithstanding the provisions of subsection b. of this section
41 or any law or regulation to the contrary, a business that has elected to
42 modify its obligations under an incentive agreement pursuant to
43 P.L.2022, c.134 may request, before December 31, 2024, to reduce the
44 number of Statewide employees specified in the incentive agreement,
45 provided the business certifies that all Statewide employment specified
46 in the incentive agreement is assigned to the qualified business facility

1 and the business is requesting to reduce the number of new or retained
2 full-time jobs specified in the incentive agreement commencing with
3 the 2020 tax period and, at the discretion of the business, whether the
4 reduction shall continue for each subsequent tax period remaining in
5 the eligibility period.¹

6 (cf: P.L.2023, c.261, s.4)

7

8 5. This act shall take effect immediately.