

[First Reprint]

SENATE, No. 1323

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

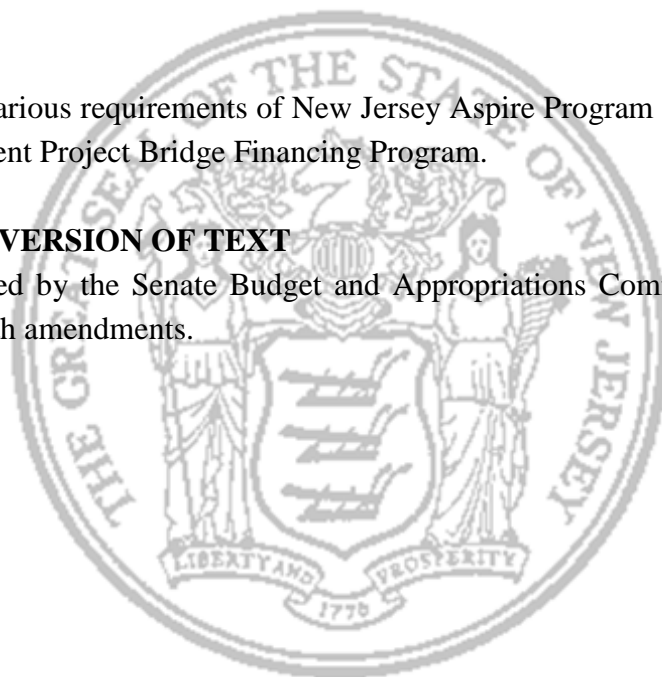
Assemblywomen Reynolds-Jackson and Speight

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 26, 2024, with amendments.



(Sponsorship Updated As Of: 12/19/2024)

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

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

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

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

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

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

16 "Aviation district" means all areas within the boundaries of the
17 Atlantic City International Airport, established pursuant to section 24
18 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
19 Administration William J. Hughes Technical Center and the area
20 within a one-mile radius of the outermost boundary of the Atlantic
21 City International Airport and the Federal Aviation Administration
22 William J. Hughes Technical Center ¹, and the Trenton-Mercer
23 Airport, established pursuant to R.S.40:8-2 and the area within a one-
24 mile radius of the outermost boundary of the terminal located at 1100
25 Terminal Circle Drive, Ewing Township¹.

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

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

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

43 "Collaborative workspace" means coworking, accelerator,
44 incubator, or other shared working environments that promote

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 26, 2024.

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

11 "Commercial project" means a redevelopment project, which is
12 predominantly commercial and, if located in a government-restricted
13 municipality, contains 25,000 or more square feet, or if located in any
14 other municipality, contains 50,000 or more square feet of office and
15 retail space, industrial space ¹~~including, but not limited to, any~~
16 industrial space that is predominantly used for warehouse distribution
17 or fulfillment centers and has at least \$10 million in environmental
18 remediation costs¹, or film studios, professional stages, television
19 studios, recording studios, screening rooms, or other infrastructure for
20 film production, and may include a parking component. The term
21 "commercial project" includes a redevelopment project comprised
22 solely of a health care or health services center, which contains not
23 less than 10,000 square feet devoted to health care or health services,
24 and which may include a parking component.

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

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

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

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

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

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

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

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

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

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

44 "Health care or health services center" means an establishment that
45 consists of not less than 10,000 square feet devoted to health care or
46 health services, where patients are admitted for or seek examination
47 and treatment by one or more physicians, dentists, psychologists, or
48 other medical practitioners, and which is located in a municipality with

1 a Municipal Revitalization Index distress score of at least 50, a
2 distressed municipality, or a qualified incentive tract.

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

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

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

30 "Incentive award agreement" means the contract executed between
31 a developer and the authority pursuant to section 60 of P.L.2020, c.156
32 (C.34:1B-328), which sets forth the terms and conditions under which
33 the developer may receive the incentive awards authorized pursuant to
34 the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
35 322 through 34:1B-335).

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

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

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

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

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

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

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

1 renewable resources to reduce environmental degradation and
2 encourage long-term cost reduction.

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

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

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

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

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

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

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

29 "Project cost" or "**total** eligible¹ project cost" means the costs
30 incurred in connection with a redevelopment project by a developer
31 until the issuance of a permanent certificate of occupancy, or until
32 such other time specified by the authority, for a specific investment or
33 improvement, including the costs relating to lands, except the cost of
34 acquiring such lands, buildings, improvements, real or personal
35 property, or any interest therein, including leases discounted to present
36 value, including lands under water, riparian rights, space rights, and air
37 rights acquired, owned, developed or redeveloped, constructed,
38 reconstructed, rehabilitated, or improved, any environmental
39 remediation costs, plus costs not directly related to construction,
40 including capitalized interest paid to third parties, of an amount not to
41 exceed 20 percent of the total costs and the cost of infrastructure
42 improvements, including ancillary infrastructure projects. When 100
43 percent of the residential units constructed in a residential project are
44 reserved for occupancy by low- and moderate-income households, the
45 term "project cost" shall also include the developer fees paid before
46 acquiring permanent financing, as well as the deferred developer fees
47 approved pursuant to the rules established by the agency. In addition
48 to the foregoing, the term "project cost" shall include the following

1 costs when incurred by a developer for a redevelopment project
2 located in a government restricted municipality: any development,
3 redevelopment, and relocation costs, including, but not limited to, land
4 ¹[and] costs, which land costs shall be capped at no more than 20
5 percent of the total project cost;¹ building acquisition costs; ¹carrying
6 costs and interest expenses on construction loans and other financing
7 up to project completion;¹ any soft costs, including engineering, legal,
8 accounting, and other professional services required for the completion
9 of the project; any environmental remediation costs; and any
10 infrastructure improvement for the project area, including, but not
11 limited to, costs of on- and off-site utility, road, pier, wharf, bulkhead,
12 or sidewalk construction or repair. The fees associated with the
13 application or administration of a grant under sections 54 through 67
14 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall not
15 constitute a project cost, regardless of the location of the
16 redevelopment project.

17 "Project financing gap" means the part of the total project cost,
18 including reasonable and appropriate return on investment, that
19 remains to be financed after all other sources of capital have been
20 accounted for, including, but not limited to developer contributed
21 capital, which shall not be less than 20 percent of the ¹[total]¹ project
22 cost, and investor or financial entity capital or loans for which the
23 developer, after making all good faith efforts to raise additional
24 capital, certifies that additional capital cannot be raised from other
25 sources on a non-recourse basis; provided, however, that for a
26 redevelopment project located in a government-restricted municipality,
27 the developer contributed capital shall not be less than 10 percent of
28 the ¹[total]¹ project cost. Developer contributed capital may consist
29 of cash, deferred development fees, costs for project feasibility
30 incurred within the 12 months prior to application, property value less
31 any mortgages when the developer owns the project site, and any other
32 investment by the developer in the project deemed acceptable by the
33 authority, as provided by regulations promulgated by the authority.
34 Property value shall be valued at the lesser of: (i) the purchase price,
35 provided the property was purchased pursuant to an arm's length
36 transaction within 12 months of application; or (ii) the value as
37 determined by a current appraisal.

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

42 "Qualified incentive tract" means (i) a population census tract
43 having a poverty rate of 20 percent or more; or (ii) a census tract in
44 which the median family income for the census tract does not exceed
45 80 percent of the greater of the Statewide median family income or the
46 median family income of the metropolitan statistical area in which the
47 census tract is situated.

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

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

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

34 "Residential project" means a redevelopment project that is
35 predominantly residential, intended for multi-family residency, and
36 may include a parking component.

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

39 "SDA municipality" means a municipality in which an SDA
40 district is situated.

41 "Special mission non-profit project" means a project located in a
42 government-restricted municipality or in an enhanced area that: serves
43 a special mission, as determined by the authority, to accomplish the
44 public purpose of a non-profit that is a developer of or is affiliated
45 with the project; and includes no more than 100 units of 100 percent
46 affordable housing units and no more than 10,000 square feet of
47 commercial space.¹

1 "Stranded asset" means any building previously used for
2 commercial, retail, office space, manufacturing, or industrial purposes,
3 which building is no longer used for such purposes, and which has
4 been abandoned, experienced significant vacancies for at least two
5 consecutive years, or has fallen into such disrepair as to be
6 untenantable. ¹"Stranded asset" includes vacant land that has been left
7 fallow for at least two consecutive years because of environmental
8 contamination.

9 "Targeted industry" means any industry identified from time to
10 time by the authority, which industry shall initially include advanced
11 transportation and logistics, advanced manufacturing, aviation,
12 autonomous vehicle and zero-emission vehicle research or
13 development, clean energy, life sciences, hemp processing,
14 information and high technology, finance and insurance, professional
15 services, film and digital media, non-retail food and beverage
16 businesses including food innovation, and other innovative industries
17 that disrupt current technologies or business models.¹

18 "Technology startup company" means a for-profit business that has
19 been in operation fewer than seven years at the time that it initially
20 occupies or expands in a qualified business facility and is developing
21 or possesses a proprietary technology or business method of a high
22 technology or life science-related product, process, or service, which
23 proprietary technology or business method the business intends to
24 move to commercialization. The business shall be deemed to have
25 begun operation on the date that the business first hired at least one
26 employee in a full-time position.

27 "Total **[project]** ¹**[development]** project¹ cost" ¹[or "total
28 redevelopment cost"]¹ means the costs incurred in connection with the
29 redevelopment project by the developer until the issuance of a
30 permanent certificate of occupancy, or upon such other event
31 evidencing project completion as set forth in the incentive grant
32 agreement, for a specific investment or improvement.

33 "Tourism destination project" means a non-gaming business
34 facility that will be among the most visited privately owned or
35 operated tourism or recreation sites in the State, and which has been
36 determined by the authority to be in an area appropriate for
37 development and in need of economic development incentive
38 assistance, including a non-gaming business within an established
39 Tourism District with a significant impact on the economic viability of
40 that district.

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

45 "Transit hub municipality" means a Transit Village or a
46 municipality: a. which qualifies for State aid pursuant to P.L.1978,
47 c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified
48 municipality thereunder pursuant to P.L.2007, c.111; and b. in which

1 30 percent or more of the value of real property was exempt from local
2 property taxation during tax year 2006. The percentage of exempt
3 property shall be calculated by dividing the total exempt value by the
4 sum of the net valuation which is taxable and that which is tax exempt.

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

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

10
11 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
12 read as follows:

13 56. a. (1) The New Jersey Aspire Program is hereby established
14 as a program under the jurisdiction of the New Jersey Economic
15 Development Authority. The authority shall administer the
16 program to encourage redevelopment projects through the provision
17 of incentive awards to reimburse developers for certain project
18 financing gap costs. The board may approve the award of an
19 incentive award to a developer upon application to the authority
20 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
21 C.34:1B-327). The value of all tax credits approved by the
22 authority pursuant to sections 54 through 67 of P.L.2020, c.156
23 (C.34:1B-322 through 34:1B-335) shall be subject to the limitations
24 set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

25 (2) The authority, in consultation with the agency, shall adopt
26 rules and regulations, pursuant to subsection b. of section 67 of
27 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
28 administration of the affordability controls that shall apply to the
29 residential units constructed for occupancy by low- and moderate-
30 income households under the program, including, but not limited to,
31 residential units within residential projects that utilize federal low-
32 income housing tax credits awarded by the agency.
33 Notwithstanding any provision of law or regulation to the contrary,
34 the affordability controls shall, at a minimum, be consistent with the
35 affordability controls established in the rules and regulations
36 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
37 (C.52:27D-301 et al.), as in effect immediately prior to the effective
38 date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not
39 limited to, any requirements concerning the 【bedroom
40 distributions,】 affordability averages, affirmative marketing, and
41 long-term deed restrictions of residential units constructed for
42 occupancy by low- and moderate-income households, except not
43 including the bedroom distribution requirements for three-bedroom
44 housing units.

45 b. The chief executive officer of the authority shall designate
46 one staff member per government-restricted municipality in order to
47 keep the municipality informed on activities within the municipality

1 and to coordinate economic development initiatives.
2 (cf: P.L.2023, c.98, s.2)

3

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

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

9 (1) without the incentive award, the redevelopment project is not
10 economically feasible;

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

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

16 (4) (a) except for demolition and site remediation activities, the
17 developer has not commenced any construction at the site of the
18 redevelopment project prior to submitting an application, unless the
19 authority determines that the redevelopment project would not be
20 completed otherwise or, in the event the redevelopment project is to be
21 undertaken in phases, the requested incentive award is limited to only
22 phases for which construction has not yet commenced;

23 (b) if the developer has commenced demolition and site
24 remediation activities at the site of the redevelopment project prior to
25 submitting an application¹ that includes those demolition and site
26 remediation costs as part of the eligible project cost¹, all construction
27 workers employed to undertake demolition and site remediation
28 activities at the site were paid not less than the prevailing wage rate for
29 the worker's craft or trade, as determined by the Commissioner of
30 Labor and Workforce Development pursuant to P.L.1963, c.150
31 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.);

32 (5) the redevelopment project shall comply with minimum
33 environmental and sustainability standards;

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

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

43 (b) during the eligibility period, each worker employed to perform
44 building services work at the redevelopment project, whether pursuant
45 to contract by the developer or a commercial tenant, commercial
46 subtenant, or other commercial occupant, shall be paid not less than
47 the prevailing wage rate for the worker's craft or trade, as determined
48 by the Commissioner of Labor and Workforce Development pursuant

1 to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
2 (C.34:11-56.58 et seq.), except that this requirement shall not apply to
3 workers employed to perform building services work by **[a]** any
4 residential tenant or any commercial tenant, commercial subtenant, or
5 other commercial occupant that has a leasehold interest or other
6 occupancy right in a redevelopment project, which leasehold interest
7 or other occupancy right encompasses less than 5,000 square feet of
8 space within the project. The developer shall include in all
9 commercial leases or other commercial occupancy agreements, and
10 shall require that all subleases or other commercial occupancy
11 agreements applicable to the redevelopment project include, a
12 provision setting forth the requirements of this subparagraph, which
13 provision shall be in a form acceptable to the authority.
14 Notwithstanding any provisions of law to the contrary, if a commercial
15 tenant, commercial subtenant, or other commercial occupant violates
16 this provision due to the underpayment of the required prevailing wage
17 rate, then the issuance of tax credits to the developer and any co-
18 applicant shall be delayed until such time as documentation
19 demonstrating compliance has been provided to the Commissioner of
20 Labor and Workforce Development, subsequently reviewed and
21 approved by the Commissioner of Labor and Workforce Development,
22 and verified by the authority, which reviews and verification shall be
23 completed. If a violation is not cured, or is not capable of being cured,
24 within one year of receipt of notice of the violation, then the developer
25 and any co-applicant shall forfeit 50 percent of the tax credits
26 otherwise authorized for the tax period in which the notice of violation
27 was issued. If the violation is not cured on or before the conclusion of
28 that tax period, the developer and any co-applicant shall forfeit up to
29 100 percent of the tax credits otherwise authorized, as determined by
30 the authority, in each subsequent tax period until the first tax period
31 for which documentation demonstrating compliance has been provided
32 to the Commissioner of Labor and Workforce Development,
33 subsequently reviewed and approved by the Commissioner of Labor
34 and Workforce Development, and verified by the authority, which
35 reviews and verifications shall be completed. In this event, the
36 developer and any co-applicant shall be allowed the full tax credit
37 amount beginning in the tax period in which documentation of
38 compliance was reviewed and approved by the Commissioner of
39 Labor and Workforce Development and verified by the authority,
40 including each subsequent tax period in which the tax credits are
41 otherwise authorized;

42 (c) in the event a redevelopment project, or any portion thereof, is
43 undertaken by a tenant pursuant to a contract and the tenant has a
44 leasehold of more than 55 percent of space in the building owned or
45 controlled by the developer, the requirement that each worker
46 employed to perform building service work at the building be paid not
47 less than the prevailing wage shall apply to the entire building, except
48 as otherwise provided in subparagraph (b) of this paragraph for all

1 residential tenants and all commercial tenants, commercial subtenants,
2 or other commercial occupants with a leasehold interest or other
3 occupancy right encompassing less than 5,000 square feet;

4 (8) (a) the redevelopment project shall be completed, and the
5 developer shall be issued a certificate of occupancy for the
6 redevelopment project facilities by the applicable enforcing agency,
7 within four years of executing the incentive award agreement, or in the
8 case of a redevelopment project with a ¹total¹ project cost in excess of
9 \$50,000,000, the incentive phase agreement corresponding to the
10 redevelopment project; or

11 (b) in the discretion of the authority, a redevelopment project with
12 a ¹total¹ project cost in excess of \$50,000,000, and that is authorized to
13 be completed in phases, may be allowed no more than six years from
14 the date on which the incentive award agreement is executed to be
15 issued a certificate of occupancy by the applicable enforcement
16 agency;

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

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

24 b. In addition to the requirements set forth in subsection a. of this
25 section, for a commercial project to qualify for an incentive award the
26 developer shall demonstrate that the developer shall contribute capital
27 of at least 20 percent of the ¹**[total]**¹ project cost, except that if a
28 redevelopment project is located in a government-restricted
29 municipality, the developer shall contribute capital of at least 10
30 percent of the ¹**[total]**¹ project cost.

31 c. In addition to the requirements set forth in subsection a. of this
32 section, for a residential project or a commercial project comprised
33 solely of a health care or health service center to qualify for an
34 incentive award, the residential project or health care or health service
35 center shall:

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

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

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

44 d. In addition to the requirements set forth in subsections a. and c.
45 of this section, for a residential project consisting of newly-constructed
46 residential units to qualify for an incentive award, the developer shall
47 reserve at least 20 percent of the residential units constructed for
48 occupancy by low- and moderate-income households with

1 affordability controls as adopted by the authority, in consultation with
2 the agency, in accordance with paragraph (2) of subsection a. of
3 section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential
4 project receiving a federal historic rehabilitation tax credit pursuant to
5 section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C.
6 s.47, or a tax credit pursuant to the "Historic Property Reinvestment
7 Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
8 34:1B-276), shall be exempt from the affordability controls related to
9 bedroom distribution.

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

26 f. Beginning ¹[on] after¹ the third year following the date of
27 issuance of a final certificate of occupancy for a commercial project,
28 and through the conclusion of the eligibility period, if the average
29 occupancy rate of the commercial project is less than 60 percent
30 during any applicable tax period, the developer and co-applicant shall
31 forfeit all credits otherwise allowed for the tax period and for each
32 subsequent tax period until the authority verifies documentation,
33 submitted by the developer or co-applicant, demonstrating that the
34 average occupancy rate has reached or surpassed 60 percent for the tax
35 period. The full amount of credit shall be allowed to a developer and
36 any co-applicant for the tax period in which the average occupancy
37 rate reaches or surpasses 60 percent. Occupancy for the tax period
38 shall be determined by the average of the monthly occupancy for the
39 applicable tax period. The occupancy requirement in this subsection
40 shall not apply to residential projects.

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

42
43 4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
44 read as follows:

45 60. a. (1) Following approval and selection of an application
46 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
47 C.34:1B-327), the authority shall enter into an incentive award
48 agreement with the developer. The chief executive officer of the

1 authority shall negotiate the terms and conditions of the incentive
2 award agreement on behalf of the State.

3 (2) For a phased project, the incentive phase agreement shall set
4 forth, for each phase of the project and for the total project, the capital
5 investment requirements and the time periods in which each phase of
6 the project shall be commenced and completed. The awarding of tax
7 credits shall be conditioned on the developer's compliance with the
8 requirements of the agreement. A redevelopment project may be
9 completed in phases in accordance with rules adopted by the authority
10 if the redevelopment project has a total project cost in excess of
11 \$50,000,000.

12 b. An incentive award agreement shall specify the amount of the
13 incentive award the authority shall award to the developer and the
14 duration of the eligibility period. The duration of the eligibility period
15 ~~shall not exceed 15 years for a commercial or mixed-use project and~~
16 shall not exceed 10 years for a commercial project, mixed-use project,
17 or residential project, except that [to] the authority shall ¹~~consider~~
18 ~~reducing~~ reduce¹ the eligibility period if a shorter period would
19 reduce the total value of tax credits needed to reimburse a developer
20 for all or part of the project financing gap of a redevelopment project,
21 ~~[the authority may, in its discretion, approve a duration for the~~
22 ~~eligibility period that is shorter than the applicable maximum periods]~~
23 enhance access to tax credit monetization on cost effective terms, or
24 otherwise enhance the effectiveness of the program. The incentive
25 award agreement shall provide an estimated date of completion and
26 include a requirement for periodic progress reports, including the
27 submittal of executed financing commitments and documents that
28 evidence site control; provided however, that the developer may sell
29 one or more buildings during the eligibility period, provided that such
30 sale is: an arms-length transaction to an unrelated party, or for an
31 amount at least equal to fair market value based on an appraisal
32 conducted within one year; and subject to the purchaser's assumption
33 of all obligations relating to the buildings pursuant to sections 54
34 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335). If
35 the authority does not receive periodic progress reports, or if the
36 progress reports demonstrate unsatisfactory progress, then the
37 authority may rescind the incentive award. If the authority rescinds an
38 incentive award in the same calendar year in which the authority
39 approved the incentive award, then the authority may assign the
40 incentive award to another applicant. The incentive award agreement
41 may also provide for a verification of the financing gap at the time the
42 developer provides executed financing commitments to the authority
43 and a verification of the developer's projected cash flow at the time of
44 certification that the project is completed.

45 c. To ensure the protection of taxpayer money, if the authority
46 determines at project certification that the actual capital financing
47 approach utilized by the project has resulted in a financing gap that is

1 smaller than the financing gap determined at board approval, the
2 authority shall reduce the amount of the tax credit or accept payment
3 from the developer on a pro rata basis. If there is no project financing
4 gap due to the actual capital financing approach utilized by the project,
5 then the developer shall forfeit the incentive award. At the end of the
6 seventh year of the eligibility period, the authority shall evaluate the
7 developer's rate of return on investment and compare that rate of return
8 on investment to the reasonable and appropriate rate of return at the
9 time of board approval. If the actual rate of return on investment
10 exceeds the reasonable and appropriate rate of return on investment at
11 the time of board approval by more than 15 percent, the authority shall
12 require the developer to pay up to 20 percent of the amount in excess
13 of the reasonable and appropriate rate of return on investment. The
14 authority shall require an escrow account to be held by the authority
15 until the end of the eligibility period. Following the final year of the
16 eligibility period, the authority shall determine if the developer's rate
17 of return exceeded the reasonable and appropriate rate of return
18 determined at board approval. If the final rate of return does not
19 exceed the reasonable and appropriate rate of return determined at
20 board approval, the authority shall release to the developer the
21 escrowed funds. If the project final rate of return exceeds the
22 reasonable and appropriate rate of return determined at board approval,
23 the authority shall require the developer to pay up to 20 percent of the
24 amount of the excess, which shall include the funds held in escrow,
25 and such funds shall be deposited in the State General Fund.

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

1 consultations with the Division of Workplace Safety and Health in the
2 Department of Health.

3 e. (1) Except as provided in paragraph (2) of this subsection, the
4 authority shall not enter into an incentive award agreement for a
5 redevelopment project that includes at least one retail establishment
6 which will have more than 10 employees, at least one distribution
7 center which will have more than 20 employees, or at least one
8 hospitality establishment which will have more than 10 employees,
9 unless the incentive award agreement includes a precondition that any
10 business that serves as the owner or operator of the retail
11 establishment, distribution center, or hospitality establishment enters
12 into a labor harmony agreement with a labor organization or
13 cooperating labor organizations which represent retail establishment,
14 hospitality establishment, or distribution center employees in the State.

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

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

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

44 (2) The community benefits agreement shall provide for the
45 creation of a community advisory committee to oversee the
46 implementation of the agreement, monitor successes, ensure
47 compliance with the terms of the agreement, and produce an annual
48 public report. The community advisory committee created pursuant to

1 this paragraph shall be comprised of representatives of diverse
2 community groups and residents of the county or municipality in
3 which the redevelopment project is located.

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

15 (4) Notwithstanding any requirement of this subsection to the
16 contrary, ¹because all redevelopment agreements require a certificate
17 of completion issued by the municipality to confirm the developer's
18 compliance with the redevelopment agreement,¹ a developer shall be
19 considered to have met the requirements of a community benefits
20 agreement **【pursuant to this subsection】, and the requirements of
21 paragraphs (2) and (3) of this subsection shall not apply,** if the
22 developer submits to the authority:

23 (a) a copy of either the developer's approval letter from the
24 authority or a redevelopment agreement applicable to the qualified
25 business facility, provided that the approval letter is certified by the
26 municipality or the redevelopment agreement is **【certified】** adopted by
27 resolution at a public meeting by the municipality in which the
28 redevelopment project is located, and includes provisions that meet **【or
29 exceed】** the **【standards】** community benefit required **【for】** under a
30 community benefits agreement ¹**【in】** pursuant to¹ this subsection **【,** as
31 determined by the chief executive officer pursuant to rules adopted by
32 the authority**】**; or

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

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

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

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

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

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

21

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

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

31 (1) 80 percent of the **¹[total] eligible¹** project cost for a
32 redevelopment project that is located in a government-restricted
33 municipality ¹or is a special mission non-profit project¹;

34 (2) 60 percent of the **¹[total] eligible¹** project cost for a residential
35 project that receives a four-percent allocation from the federal Low
36 Income Housing Tax Credit Program administered by the agency, ¹ or a
37 redevelopment project that is located in a qualified incentive tract,
38 enhanced area, or a municipality with a Municipal Revitalization Index
39 score of at least 50; or

40 (3) 50 percent of the **¹[total] eligible¹** project cost for any other
41 redevelopment project.

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

44 (1) \$120,000,000 per redevelopment project or phase for a
45 redevelopment project that is located in a government-restricted
46 municipality ¹or is a special mission non-profit project¹;

1 (2) \$90,000,000 per redevelopment project or phase for a
2 redevelopment project that is allowed a tax credit under paragraph (2)
3 of subsection a. of this section; and

4 (3) \$60,000,000 for any other redevelopment project or phase.

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

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

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

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

22 d. Except for a redevelopment project that is located in a
23 government restricted municipality:

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

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

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

35
36 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
37 read as follows:

38 62. a. A developer approved for an incentive award pursuant to
39 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327)
40 and that enters an incentive award agreement pursuant to section 60 of
41 P.L.2020, c.156 (C.34:1B-328) shall submit annually, commencing in
42 the year in which the incentive award is issued and for the remainder
43 of the eligibility period, a report indicating whether the developer is
44 aware of any condition, event, or act that would cause the developer
45 not to be in compliance with the incentive award agreement or the
46 provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322
47 through C.34:1B-335) and any additional reporting requirements
48 contained in the incentive award agreement or tax credit certificate.

1 The developer, or an authorized agent of the developer, shall certify
2 that the information provided pursuant to this subsection is true under
3 the penalty of perjury.

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

20 (2) Upon receipt by the director of the certificate of compliance,
21 the director shall allow the developer a credit against the tax imposed
22 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer
23 shall apply the credit awarded against the developer's liability under
24 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
25 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950,
26 c.231 (C.17:32-15), or N.J.S.17B:23-5 ¹**【for the privilege period**
27 **【during】** identified in the tax credit certificate which the director
28 **【allows】** issues to the developer **【a tax credit】** pursuant to this
29 subsection, or within the three successive tax periods immediately
30 following the tax period in which the tax credit certificate is received
31 by the developer】 in the tax period for which it was issued, in the tax
32 period in which it was issued, or in any successive tax period, as
33 authorized pursuant to this subsection, without the need to amend the
34 tax return for the tax period for which the credit was issued, subject to
35 the carry-forward provision in this section. Notwithstanding the
36 foregoing, no more than the amount of tax credits equal to the total
37 credit amount divided by the duration of the tax credit term, in years,
38 may be taken in any tax period¹. A developer may carry forward an
39 unused credit resulting from the limitations of paragraph (3) of this
40 subsection, if necessary, for use in the seven privilege periods next
41 following the privilege period for which the credits are **【awarded】**
42 applied. Credits granted to a partnership shall be passed through to the
43 partners, members, or owners, respectively, pro-rata, or pursuant to an
44 executed agreement among the partners, members, or owners
45 documenting an alternate distribution method provided to the director
46 accompanied by any additional information as the director may
47 prescribe.

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

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

11
12 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
13 read as follows:

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

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

42 b. The developer shall not sell or assign, including a collateral
43 assignment, a tax credit transfer certificate allowed under this section
44 for consideration received by the developer of less than 85 percent of
45 the transferred credit amount before considering any further
46 discounting to present value which shall be permitted, except a
47 developer of a residential project consisting of newly-constructed
48 residential units may assign a tax credit transfer certificate for

1 consideration of less than 85 percent subject to the submission of a
2 plan to the authority and the agency to use the proceeds derived from
3 the assignment of tax credits to complete the residential project, except
4 a developer of a residential project consisting of newly-constructed
5 residential units that has received federal low income housing tax
6 credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax credit
7 transfer certificate for consideration of no less than 65 percent subject
8 to the submission of a plan to the authority and the New Jersey
9 Housing and Mortgage Finance Agency to use the proceeds derived
10 from the assignment of tax credits to complete the residential project.
11 The tax credit transfer certificate issued to a developer by the director
12 shall be subject to any limitations and conditions imposed on the
13 application of State tax credits pursuant to sections 54 through 67 of
14 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and any other
15 terms and conditions that the director may prescribe; provided,
16 however, that the holder of a tax credit certificate may transfer all or
17 part of the tax credit amount, ¹within the three successive tax periods
18 immediately following the tax period in which the tax credit certificate
19 is received by the developer at any time after the date of receipt of
20 the tax credit certificate¹, on or after the date of issuance of the tax
21 credit transfer certificate, for use by the transferee in the tax period for
22 which it was issued ¹or within the three successive tax periods
23 immediately following the tax period in which the tax credit transfer
24 certificate is received by the transferee, and the transferee may carry
25 forward all or part of the tax credit amount in any of the next five
26 successive tax periods after the tax period for which it was used, in
27 the tax period in which it was issued, or in any successive tax period,
28 as authorized in this subsection, without the need to amend the tax
29 return for the tax period for which the credit was issued, subject to the
30 carry-forward provision in this section. A transferee may carry
31 forward an unused credit for use in any of the next five successive tax
32 periods, and the unused credit shall expire thereafter¹.
33 Notwithstanding any provision of this section to the contrary, the
34 amount of tax credits that may be claimed by the transferee in any tax
35 period shall not exceed the total tax credit amount divided by the
36 duration of the eligibility period in years.

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

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

- 43 (1) the name of the transferor;
- 44 (2) the name of the transferee;
- 45 (3) the value of the tax credit transfer certificate; and
- 46 (4) the consideration received by the transferor.

1 ¹ [e. When a tax credit certificate is issued to a developer after the
2 tax period in which all or part of the tax credits may be used by the
3 developer or a holder of the credit transfer certificate, the developer or
4 transferee shall be allowed to use the tax credit for the same tax period
5 specified in the tax credit certificate, or within the three successive tax
6 periods immediately following the tax period in which the certificate is
7 received by the developer or transferee. In this circumstance, the
8 developer or transferee shall not be required to amend its tax return for
9 the tax period in which it applies the tax credit or for a tax period
10 preceding the tax period in which the tax credit is applied.]¹

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

12

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

15 65. a. As used in this section, "transformative project" means a
16 redevelopment project: that has a project financing gap; that has a total
17 project cost of at least \$150,000,000; that ¹ [, subject to the provisions
18 of subsection h. of this section,]¹ includes 200,000 or more square feet
19 of new or substantially renovated industrial, commercial, or residential
20 space for a project located in a government-restricted municipality,
21 that includes 250,000 or more square feet of film studios, professional
22 stages, television studios, recording studios, screening rooms, or other
23 infrastructure for film production, that includes 300,000 or more
24 square feet of new or substantially renovated industrial, commercial,
25 or residential space for a project located in an enhanced area, or that
26 includes 500,000 or more square feet of new or substantially renovated
27 industrial, commercial, or residential space for any other project; and,
28 for a commercial project, that is of special economic importance as
29 measured by the level of new jobs, new capital investment,
30 opportunities to leverage leadership in a high-priority targeted
31 industry, or other state priorities as determined by the authority
32 pursuant to rules and regulations promulgated to implement this
33 section. Notwithstanding the provisions of subsection b. of section 14
34 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications
35 submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-
36 335.1 et al.), if the redevelopment project is located entirely on land
37 designated by the Department of Environmental Protection as a
38 brownfield development area pursuant to section 7 of P.L.2005, c.223
39 (C.58:10B-25.1), and the ¹ total¹ project cost of the redevelopment
40 project includes at least \$15,000,000 in environmental remediation
41 costs, the redevelopment project shall constitute a project of special
42 economic importance. A transformative project may be completed in
43 phases, which phases may be determined by the authority based on
44 factors such as written architectural plans and specifications completed
45 before or during the physical work, certificates of occupancy, or
46 financial and operational plans. The criteria developed by the
47 authority shall include, but shall not be limited to:

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

4 (2) (a) for a residential project, the construction of 700 or more
5 new residential units; or

6 (b) for a residential project containing ~~【less】~~ fewer than 700 new
7 residential units, the construction of 200 or more new residential units
8 if the project is located in a government-restricted municipality, 300 or
9 more ¹new¹ residential units if the project is located in an enhanced
10 area, or 400 or more ¹new¹ residential units for all other mixed-use
11 projects; or

12 (c) for a residential project ~~【containing】~~ , not located in a
13 government-restricted municipality or an enhanced area, that contains¹
14 ~~【less】~~ fewer than 700 new residential units, the construction of
15 ~~【50,000】~~ 20,000 square feet or more of commercial space, which
16 commercial space may include retail space; and

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

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

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

36 b. (1) The authority may award incentive awards to
37 transformative projects in accordance with the provisions of sections
38 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335).

39 (2) (a) For transformative projects completed in phases, the
40 developer shall enter into a transformative phase agreement with the
41 authority.

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

46 (3) Notwithstanding the provisions of section 57 of P.L.2020,
47 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156

1 (C.34:1B-269 et al.) to the contrary, a transformative project shall be
2 completed, and the developer shall be issued a certificate of occupancy
3 for the transformative project facilities by the applicable enforcing
4 agency, within five years of executing the incentive award agreement,
5 except that the authority may, in its discretion, extend this deadline by
6 up to one additional year. For transformative projects completed in
7 phases, the transformative project shall be completed, and the
8 developer shall be issued certificates of occupancy for all phases of the
9 transformative project facilities by the applicable enforcing agency,
10 within 10 years of executing either the incentive award agreement or
11 the first transformative phase agreement corresponding to the
12 transformative project.

13 (4) Notwithstanding the provisions of sections 55 and 60 of
14 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section
15 of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each phase of a
16 transformative project completed in phases shall have a separate
17 eligibility period. After completing each phase, the developer shall
18 submit a certification that the phase is completed. If the authority
19 approves the certification, the tax credit allowed to the developer shall
20 be increased by the tax credit amount corresponding to that phase.
21 Notwithstanding the different eligibility periods for each phase, all
22 conditions and requirements applicable during an eligibility period
23 pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323
24 through 34:1B-335) shall apply to ¹【the entire】 each phase of a¹
25 transformative project until the end of the eligibility period ¹【for the
26 last】 of each completed¹ phase.

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

36 (6) A transformative project receiving an incentive award pursuant
37 to this section, other than a project that includes 250,000 or more
38 square feet of film studios, professional stages, television studios,
39 recording studios, screening rooms or other infrastructure for film
40 production, shall be located in an incentive area, a distressed
41 municipality, a government-restricted municipality, or an enhanced
42 area. A transformative project receiving an incentive award pursuant
43 to this section that includes 250,000 or more square feet of film
44 studios, professional stages, television studios, recording studios,
45 screening rooms or other infrastructure for film production may be
46 located anywhere in the State. The authority shall not consider an
47 application for a transformative project unless the applicant submits
48 with its application a letter evidencing support for the transformative

1 project from the governing body of the municipality in which the
2 transformative project is located.

3 c. The authority shall review the transformative project cost,
4 evaluate and validate the project financing gap estimated by the
5 developer, and conduct a State fiscal impact analysis to ensure that the
6 overall public assistance provided to the transformative project will
7 result in a net positive benefit to the State. In determining whether a
8 transformative project will result in a net positive benefit to the State,
9 the authority shall not consider the value of any taxes exempted,
10 abated, rebated, or retained under the "Five-Year Exemption and
11 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
12 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the
13 "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
14 (C.52:27H-60 et seq.), or any other law that has the effect of lowering
15 or eliminating the developer's State or local tax liability. The
16 determination made pursuant to this subsection shall be based on the
17 potential tax liability of the developer without regard for potential tax
18 losses if the developer were to locate in another state. The authority
19 shall assess the cost of these reviews to the applicant. A developer
20 shall pay to the authority the full amount of the direct costs of an
21 analysis concerning the developer's application for an incentive award
22 that a third party retained by the authority performs, if the authority
23 deems such retention to be necessary. The authority shall evaluate the
24 net economic benefits on a present value basis under which the
25 requested tax credit allocation amount is discounted to present value at
26 the same discount rate as the projected benefits from the
27 implementation of the proposed transformative project for which an
28 award of tax credits is being sought. Projects that are predominantly
29 residential shall be excluded from the calculation of the net benefit test
30 required pursuant to this subsection.

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

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

42 f. Prior to allocating an incentive award to a developer, the
43 authority shall confirm with the Department of Labor and Workforce
44 Development, the Department of Environmental Protection, and the
45 Department of the Treasury that the developer is in substantial good
46 standing with the respective department, or the developer has entered
47 into an agreement with the respective department that includes a
48 practical corrective action plan, and the developer shall certify that

1 each contractor or subcontractor performing work at the transformative
2 project: (1) is registered as required by "The Public Works Contractor
3 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not
4 been debarred by the Department of Labor and Workforce
5 Development from engaging in or bidding on Public Works Contracts
6 in the State; and (3) possesses a tax clearance certificate issued by the
7 Division of Taxation in the Department of the Treasury. The authority
8 may also contract with an independent third party to perform a
9 background check on the developer.

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

15 (1) (a) 80 percent of the ¹**total** eligible¹ project cost for a
16 transformative project that is located in a government-restricted
17 municipality;

18 (b) 60 percent of the ¹**total** eligible¹ project cost for a residential
19 transformative project that receives a four-percent allocation from the
20 federal Low Income Housing Tax Credit Program administered by the
21 agency or a transformative project that is located in a qualified
22 incentive tract, enhanced area, or a municipality with a Municipal
23 Revitalization Index score of at least 50; or

24 (c) 50 percent of the ¹**total** eligible¹ project cost for any other
25 transformative project;

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

27 (3) \$400,000,000 except that for a transformative project that is
28 developed in phases, the \$400,000,000 limitation on incentive awards
29 set forth in this paragraph shall apply to the total aggregate award for
30 all phases of the transformative project.

31 h. Notwithstanding the limitations set forth in subsection g. of this
32 section, a developer of a transformative project shall be eligible for
33 each of the following enhancements to the total tax credit award ¹,
34 individually or in combination, subject to the demonstration of a
35 financing gap and need for support¹ :

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

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

43 (3) for a transformative project that meets local first source hiring
44 requirements for residents in the municipality or county in which the
45 project is located and in surrounding municipalities, as appropriate, an
46 enhancement of up to three percent of the project cost of the
47 transformative project.

1 ¹【i.(1) The parking component of a transformative project shall be
 2 included in the calculation of the total square footage of the project,
 3 provided that the parking component shall be constructed in
 4 conformity with local zoning, planning, or similar requirements, or up
 5 to the amount required by the Residential Site Improvement Standards,
 6 regardless of whether the Residential Site Improvement Standards
 7 apply to the parking component. Any portion of the parking
 8 component that exceeds the local parking requirements or the
 9 Residential Site Improvement Standards shall not be included in the
 10 calculation of the total square footage of the project.

11 (2) Notwithstanding any provision of paragraph (1) of this
 12 subsection to the contrary, the entire parking component of a project
 13 located in a government restricted municipality shall be included in the
 14 calculation of the total square footage of the project.】¹

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

16
 17 9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to
 18 read as follows:

19 14. a. (1) Except as otherwise provided in subsection b. of this
 20 section, all program applications **【completed after】** submitted to ¹or
 21 approved by¹ the authority ¹【on or】¹ after ¹【the date six months prior
 22 to the effective date of 【P.L.2023, c.98 (C.34:1B-335.1 et al.)】 P.L. ,
 23 c. (C.) (pending before the Legislature as this bill)】 January 1,
 24 2023¹ shall be subject to the "New Jersey Aspire Program Act,"
 25 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
 26 34:1B-335), as amended as supplemented by P.L.2023, c.98 (C.34:1B-
 27 335.1 et al.), and as further amended and supplemented by P.L. , c.
 28 (C.) (pending before the Legislature as this bill), including the
 29 rules and regulations adopted pursuant to subsection b. of section 67 of
 30 P.L.2020, c.156 (C.34:1B-335), except that applications submitted to
 31 the authority prior to the effective date of P.L. , c. (C.)
 32 (pending before the Legislature as this bill) shall be subject to the rules
 33 and regulations concerning application fees that were in effect
 34 immediately before the effective date of P.L. , c. (C.)
 35 (pending before the Legislature as this bill).

36 (2) **【**Except as otherwise provided in subsection b. of this section,
 37 all program applications completed on or before the effective date of
 38 P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be subject to the provisions
 39 of the "New Jersey Aspire Program Act," sections 54 through 67 of
 40 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as such provisions
 41 remained in effect immediately before the effective date of P.L.2023,
 42 c.98 (C.34:1B-335.1 et al.), including the rules and regulations adopted
 43 pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-
 44 335).**】** (Deleted by amendment, P.L. , c. (C.) (pending before
 45 the Legislature as this bill)

46 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-
 47 269 et al.) to the contrary, if a completed application for a residential

1 project is submitted to the authority on or before the 121st calendar
2 day next following effective date of P.L.2023, c.98 (C.34:1B-335.1 et
3 al.), the applicant for the residential project has received all applicable
4 approvals pursuant to the "Municipal Land Use Law," P.L.1975, c.291
5 (C.40:55D-1 et seq.) on or before the 121st calendar day next
6 following the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
7 and the applicant submits written notice to the authority, before the
8 authority's approval or denial of the application, electing for the
9 application to be governed under the provisions of this subsection,
10 then the residential units constructed for occupancy by low- and
11 moderate-income households within the residential project shall not be
12 subject to the affordability controls adopted by the authority, in
13 consultation with the agency, pursuant to paragraph (2) of subsection
14 a. of section 56 of P.L.2020, c.156 (C.34:1B-324) and subsection b. of
15 section 67 of P.L.2020, c.156 (C.34:1B-335). In this event, the
16 application for the residential project shall be reviewed, approved, and
17 administered in accordance with the provisions of the "New Jersey
18 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
19 (C.34:1B-322 through 34:1B-335), as such provisions remained in
20 effect immediately before the effective date of P.L.2023, c.98
21 (C.34:1B-335.1 et al.), including the rules and regulations adopted
22 pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-
23 335), except that the application shall be subject to:

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

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

31 (3) no proration of the tax credit for any year within the eligibility
32 period¹.

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

34

35 10. (New section) The authority shall promulgate a schedule of
36 application and other fees imposed under the program, which fees
37 shall be limited to the coverage of actual direct costs of
38 administering the program, the coverage of reasonable indirect costs
39 of administering the program, and the maintenance of reasonable
40 reserves for administering the program. Any application fee or
41 other fee charged by the authority shall be proportional to the tax
42 credit amount awarded for a redevelopment project under the
43 program.

44

45 11. (New section) a. The authority shall establish, as part of the
46 program, a "Redevelopment Project Bridge Financing Program" to
47 facilitate the ability of a developer to secure financing for a
48 redevelopment project until such time as tax credits are issued

1 pursuant to the “New Jersey Aspire Program Act,” sections 54 through
2 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as
3 amended as supplemented. Through the program, the authority shall
4 provide full or partial loans or loan guarantees, at the authority’s
5 discretion, to the developers of redevelopment projects for the purpose
6 of ensuring the completion of the redevelopment projects. As
7 determined by the authority, the Redevelopment Project Bridge
8 Financing Program may consist of:

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

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

13 b. (1) The authority may issue a redevelopment project bridge
14 financing loan to the developer of an approved redevelopment project,
15 upon application by the developer, provided that the authority
16 determines that:

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

19 (b) the redevelopment project bridge financing loan will enable the
20 completion of the redevelopment project.

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

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

25 (b) a proposed repayment schedule;

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

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

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

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

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

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

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

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

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

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

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

10 d. (1) The authority shall establish a Redevelopment Project
11 Bridge Financing Revolving Fund from which the authority shall
12 provide all loans issued pursuant to subsection b. of this section and
13 provide all loan guarantees issued pursuant to subsection c. of this
14 section. All monies received from payments of the principle and
15 interest for loans issued pursuant to this section shall be deposited into
16 the Redevelopment Project Bridge Financing Revolving Fund, which
17 fund shall remain until the authority determines that there no longer
18 remains a need for bridge financing or until December 31, 2028,
19 whichever occurs first. After the fund is no longer needed, or upon its
20 expiration, all monies in the fund shall be deposited into the General
21 Fund.

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

28

29 12. (New section) a. To facilitate the efficient monetization of
30 tax credits awarded under the program, the Department of the Treasury
31 shall ¹[" at such times as the department deems necessary,"]¹ redeem
32 the tax credits ¹["awarded to"] surrendered for redemption by¹ a
33 developer for a redevelopment project at a discount from face value.
34 ¹["The tax credit redemptions shall be made at such discounts as the
35 State Treasurer deems appropriate, except that the discount shall not
36 exceed 10 percent of the face value of the tax credits."] ¹

37 b. ¹To effectuate a redemption authorized pursuant to this section,
38 in lieu of applying any tax credit certificate or tax credit transfer
39 certificate against tax liability otherwise due pursuant to section 5 of
40 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
41 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
42 15), or N.J.S.17B:23-5, a taxpayer may surrender a tax credit
43 certificate or tax credit transfer certificate for redemption to the
44 director for a cash payment equal to 90 percent of the amount of tax
45 credits evidenced by the certificate, provided that the issuance date of
46 the tax credit certificate or tax credit transfer certificate to the taxpayer
47 surrendering such certificate occurred at least one year prior to the date

1 of surrender and that the certificate has not been sold or assigned
 2 previously.

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

11

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

14 89. a. The Director of the Division of Taxation in the Department
 15 of the Treasury may purchase unused tax credits awarded under a
 16 program listed in subsection b. of this section, including tax credit
 17 transfer certificates issued by the director in lieu of a tax credit allowed
 18 under such programs. The director shall not pay consideration in
 19 excess of 75 percent of the credit amount to be purchased, except for a
 20 credit awarded under:

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

25 (2) the "New Jersey Aspire Program Act," sections 54 through 67
 26 (¹**【C.34:1B-222】 C.34:1B-322¹ through C.34:1B-335**), as amended
 27 and supplemented, which shall be subject to the provisions of section
 28 12 of P.L. , c. (C.) (pending before the Legislature as this
 29 bill).

30 b. The Director of the Division of Taxation in the Department of
 31 the Treasury may purchase tax credits awarded under the following:

32 (1) the "Historic Property Reinvestment Act," sections ¹**【1】** 2¹
 33 through 8 of P.L.2020, c.156 (¹**【C.34:1B-269】 C.34:1B-270¹ through**
 34 C.34:1B-276);

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

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

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

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

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

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

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

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

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

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

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

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

12
13 14. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read
14 as follows:

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

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

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

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

29 (d) "Net worth" shall mean the aggregate of the values disclosed
30 by the books of the corporation for (1) issued and outstanding capital
31 stock, (2) paid-in or capital surplus, (3) earned surplus and undivided
32 profits, and (4) surplus reserves which can reasonably be expected to
33 accrue to holders or owners of equitable shares, not including
34 reasonable valuation reserves, such as reserves for depreciation or
35 obsolescence or depletion. Notwithstanding the foregoing, net worth
36 shall not include any deduction for the amount of the excess
37 depreciation described in paragraph (2) (F) of subsection (k) of this
38 section. The foregoing aggregate of values shall be reduced by 50% of
39 the amount disclosed by the books of the corporation for investment in
40 the capital stock of one or more subsidiaries, which investment is
41 defined as ownership (1) of at least 80% of the total combined voting
42 power of all classes of stock of the subsidiary entitled to vote and (2)
43 of at least 80% of the total number of shares of all other classes of
44 stock except nonvoting stock which is limited and preferred as to
45 dividends. In the case of investment in an entity organized under the
46 laws of a foreign country, the foregoing requisite degree of ownership
47 shall effect a like reduction of such investment from the net worth of
48 the taxpayer, if the foreign entity is considered a corporation for any

1 purpose under the United States federal income tax laws, such as (but
2 not by way of sole examples) for the purpose of supplying deemed
3 paid foreign tax credits or for the purpose of status as a controlled
4 foreign corporation. In calculating the net worth of a taxpayer entitled
5 to reduction for investment in subsidiaries, the amount of liabilities of
6 the taxpayer shall be reduced by such proportion of the liabilities as
7 corresponds to the ratio which the excluded portion of the subsidiary
8 values bears to the total assets of the taxpayer.

9 In the case of banking corporations which have international
10 banking facilities as defined in subsection (n), the foregoing aggregate
11 of values shall also be reduced by retained earnings of the international
12 banking facility. Retained earnings means the earnings accumulated
13 over the life of such facility and shall not include the distributive share
14 of dividends paid and federal income taxes paid or payable during the
15 tax year.

16 If in the opinion of the director, the corporation's books do not
17 disclose fair valuations the director may make a reasonable
18 determination of the net worth which, in his opinion, would reflect the
19 fair value of the assets, exclusive of subsidiary investments as defined
20 aforesaid, carried on the books of the corporation, in accordance with
21 sound accounting principles, and such determination shall be used as
22 net worth for the purpose of this act.

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

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

37 (g) "Regulated investment company" shall mean any corporation
38 which for a period covered by its report, is registered and regulated
39 under the Investment Company Act of 1940 (¹【54 Stat. 789】 15
40 U.S.C. ss.80a-1 et seq.¹), as amended.

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

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

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

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

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

17 (1) Entire net income shall exclude for the periods set forth in
18 paragraph (2)(F)(i) of this subsection, any amount, except with respect
19 to qualified mass commuting vehicles as described in section
20 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately
21 prior to January 1, 1984, which is included in a taxpayer's federal
22 taxable income solely as a result of an election made pursuant to the
23 provisions of paragraph (8) of that section.

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

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

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

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

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

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

42 (F) (i) The amount by which depreciation reported to the United
43 States Treasury Department for property placed in service on and after
44 January 1, 1981, but prior to taxpayer fiscal or calendar accounting
45 years beginning on and after the effective date of P.L.1993, c.172, for
46 purposes of computing federal taxable income in accordance with
47 section 168 of the Internal Revenue Code in effect after December 31,
48 1980, exceeds the amount of depreciation determined in accordance

1 with the Internal Revenue Code provisions in effect prior to January 1,
2 1981, but only with respect to a taxpayer's accounting period ending
3 after December 31, 1981; provided, however, that where a taxpayer's
4 accounting period begins in 1981 and ends in 1982, no modification
5 shall be required with respect to this paragraph (F) for the report filed
6 for such period with respect to property placed in service during that
7 part of the accounting period which occurs in 1981. The provisions of
8 this subparagraph shall not apply to assets placed in service prior to
9 January 1, 1998 of a gas, gas and electric, and electric public utility
10 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et
11 seq.) prior to 1998.

12 (ii) For the periods set forth in subparagraph (F)(i) of paragraph (2)
13 of this subsection, any amount, except with respect to qualified mass
14 commuting vehicles as described in section 168(f)(8)(D)(v) of the
15 Internal Revenue Code as in effect immediately prior to January 1,
16 1984, which the taxpayer claimed as a deduction in computing federal
17 income tax pursuant to a qualified lease agreement under paragraph (8)
18 of that section.

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

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

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

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

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

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

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

47 (J) (i) Amounts deducted for federal tax purposes pursuant to
48 section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C.

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

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

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

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

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

46 (4) There shall be allowed as a deduction from entire net income
47 of a banking corporation, to the extent not deductible in determining

1 federal taxable income, the eligible net income of an international
2 banking facility determined as follows:

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

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

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

16 (ii) Making or placing deposits with foreign persons which are
17 banks or foreign branches of banks (including foreign subsidiaries) or
18 foreign branches of the taxpayers or with other international banking
19 facilities;

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

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

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

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

33 (ii) For privilege periods beginning after December 31, 2016 and
34 before January 1, 2019, entire net income shall exclude 95% of
35 dividends which were included in computing such taxable income for
36 federal income tax purposes, paid or deemed paid, to the taxpayer by
37 one or more subsidiaries owned by the taxpayer to the extent of the
38 80% or more ownership of investment described in subsection (d) of
39 this section. For the purposes of calculating the tax liability owed for
40 the paid or deemed paid dividends included in entire net income by
41 this subparagraph (ii), the taxpayer shall use either their three-year
42 average allocation factor for the taxpayer's 2014 through 2016 tax
43 years reported on the taxpayer's tax returns or 3.5 percent, whichever
44 is lower.

45 (iii) For privilege periods beginning on and after January 1, 2019
46 and ending before July 31, 2023, entire net income shall exclude 95%
47 of dividends which were included in computing such taxable income
48 for federal income tax purposes, paid or deemed paid to the taxpayer

1 by one or more subsidiaries owned by the taxpayer to the extent of the
2 80% or more ownership of investment described in subsection (d) of
3 this section.

4 (iv) For privilege periods ending on and after July 31, 2023, entire
5 net income shall exclude 100 percent of dividends and deemed
6 dividends that were included in computing such taxable income for
7 federal income tax purposes, paid or deemed paid to the taxpayer by
8 one or more subsidiaries owned by the taxpayer to the extent of the 80
9 percent or more ownership of investment described in subsection (d)
10 of this section.

11 (B) Entire net income shall exclude 50% of dividends which were
12 included in computing such taxable income for federal income tax
13 purposes, paid or deemed paid to the taxpayer by one or more
14 subsidiaries owned by the taxpayer to the extent of 50% or more
15 ownership of investment, such ownership of investment calculated in
16 the same manner as the 80% or more of ownership of investment is
17 calculated as described in subsection (d) of this section.

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

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

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

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

41 (i) The exclusion provided by this paragraph (5) shall be deducted
42 from entire net income after the State modifications that increase
43 federal entire net income but before the other State modifications that
44 reduce entire net income and before the allocation of entire net income
45 to this State.

46 (ii) In computing the total amount of the dividends and deemed
47 dividends excluded by this paragraph (5) for privilege periods ending
48 on and after July 31, 2023, the amount of dividends and deemed

1 dividends excluded shall be reduced by the amount of the expenses
2 and deductions that are attributable to those dividends and deemed
3 dividends. For purposes of this paragraph (5), expenses and
4 deductions related to dividends shall equal five percent of all dividends
5 and deemed dividends received by a taxpayer during an income year.

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

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

14 (B) Net operating loss carryover. A net operating loss for any
15 privilege period ending after June 30, 1984 shall be a net operating
16 loss carryover to each of the seven privilege periods following the
17 period of the loss and a net operating loss for any privilege period
18 ending after June 30, 2009 shall be a net operating loss carryover to
19 each of the twenty privilege periods following the period of the loss.
20 The entire amount of the net operating loss for any privilege period
21 (the "loss period") shall be carried to the earliest of the privilege
22 periods to which the loss may be carried. The portion of the loss which
23 shall be carried to each of the other privilege periods shall be the
24 excess, if any, of the amount of the loss over the sum of the entire net
25 income, computed without the exclusions permitted in paragraphs (4)
26 and (5) of this subsection or the net operating loss deduction provided
27 by subparagraph (A) of this paragraph, for each of the prior privilege
28 periods to which the loss may be carried.

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

34 (D) Change in ownership. Where there is a change in 50% or more
35 of the ownership of a corporation because of redemption or sale of
36 stock and the corporation changes the trade or business giving rise to
37 the loss, no net operating loss sustained before the changes may be
38 carried over to be deducted from income earned after such changes. In
39 addition where the facts support the premise that the corporation was
40 acquired under any circumstances for the primary purpose of the use
41 of its net operating loss carryover, the director may disallow the
42 carryover.

43 (E) Notwithstanding the provisions of this paragraph (6) of
44 subsection (k) of this section to the contrary, for privilege periods
45 beginning during calendar year 2002 and calendar year 2003, no
46 deduction for any net operating loss carryover shall be allowed and for
47 privilege periods beginning during calendar year 2004 and calendar
48 year 2005, there shall be allowed as a deduction for the privilege

1 period so much of the net operating loss carryover as reduces entire net
2 income otherwise calculated by 50%. If and only to the extent that any
3 net operating loss carryover deduction is disallowed by reason of this
4 subparagraph (E), the date on which the amount of the disallowed net
5 operating loss carryover deduction would otherwise expire shall be
6 extended by a period equal to the period for which application of the
7 net operating loss was disallowed by this subparagraph.

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

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

20 (7) The entire net income of gas, electric and gas and electric
21 public utilities that were subject to, or would have been subject to tax
22 if doing business in this State, the provisions of P.L.1940, c.5
23 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting
24 the New Jersey depreciation allowance for federal tax depreciation
25 with respect to assets placed in service prior to January 1, 1998. For
26 gas, electric, and gas and electric public utilities that were subject to,
27 or would have been subject to tax if doing business in this State, the
28 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the
29 New Jersey depreciation allowance shall be computed as follows: All
30 depreciable assets placed in service prior to January 1, 1998 shall be
31 considered a single asset account. The New Jersey tax basis of this
32 depreciable asset account shall be an amount equal to the carryover
33 adjusted basis for federal income tax purposes on December 31, 1997
34 of all depreciable assets in service on December 31, 1997, increased
35 by the excess, of the "net carrying value," defined to be adjusted book
36 basis of all assets and liabilities, excluding deferred income taxes,
37 recorded on the public utility's books of account on December 31,
38 1997, over the carryover adjusted basis for federal income tax
39 purposes on December 31, 1997 of all assets and liabilities owned by
40 the gas, electric, or gas and electric public utility as of December 31,
41 1997. "Books of account" for gas, gas and electric, and electric public
42 utilities means the uniform system of accounts as promulgated by the
43 Federal Energy Regulatory Commission and adopted by the Board of
44 Public Utilities. The following adjustments to entire net income shall
45 be made pursuant to this section:

46 (A) Depreciation for property placed in service prior to January 1,
47 1998 shall be adjusted as follows:

- 1 (i) Depreciation for federal income tax purposes shall be
2 disallowed in full.
- 3 (ii) A deduction shall be allowed for the New Jersey depreciation
4 allowance. The New Jersey depreciation allowance shall be computed
5 for the single asset account described above based on the New Jersey
6 tax basis as adjusted above as if all assets in the single asset account
7 were first placed in service on January 1, 1998. Depreciation shall be
8 computed using the straight line method over a thirty-year life. A full
9 year's depreciation shall be allowed in the initial tax year. No half-year
10 convention shall apply. The depreciable basis of the single account
11 shall be reduced by the adjusted federal tax basis of assets sold, retired,
12 or otherwise disposed of during any year on which gain or loss is
13 recognized for federal income tax purposes as described in
14 subparagraph (B) of this paragraph.
- 15 (B) Gains and losses on sales, retirements and other dispositions of
16 assets placed in service prior to January 1, 1998 shall be recognized
17 and reported on the same basis as for federal income tax purposes.
- 18 (C) The Director of the Division of Taxation shall promulgate
19 regulations describing the methodology for allocating the single asset
20 account in the event that a portion of the utility's operations are
21 separated, spun-off, transferred to a separate company or otherwise
22 desegregated.
- 23 (8) In the case of taxpayers that are gas, electric, gas and electric,
24 or telecommunications public utilities as defined pursuant to
25 subsection (q) of this section, the director shall have authority to
26 promulgate rules and issue guidance correcting distortions and
27 adjusting timing differences resulting from the adoption of P.L.1997,
28 c.162 (C.54:10A-5.25 et al.).
- 29 (9) Notwithstanding paragraph (1) of this subsection, entire net
30 income shall not include the income derived by a corporation
31 organized in a foreign country from the international operation of a
32 ship or ships, or from the international operation of aircraft, if such
33 income is exempt from federal taxation pursuant to section 883 of the
34 federal Internal Revenue Code of 1986, 26 U.S.C. s.883.
- 35 (10) Entire net income shall exclude all income of an alien
36 corporation the activities of which are limited in this State to investing
37 or trading in stocks and securities for its own account, investing or
38 trading in commodities for its own account, or any combination of
39 those activities, within the meaning of section 864 of the federal
40 Internal Revenue Code of 1986, 26 U.S.C. s.864, as in effect on
41 December 31, 1998. Notwithstanding the previous sentence, if an alien
42 corporation undertakes one or more infrequent, extraordinary or non-
43 recurring activities, including but not limited to the sale of tangible
44 property, only the income from such infrequent, extraordinary or non-
45 recurring activity shall be subject to the tax imposed pursuant to
46 P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income
47 subject to tax shall be determined without regard to the allocation to
48 that specific transaction of any general business expense of the

1 taxpayer and shall be specifically assigned to this State for taxation by
2 this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-6).
3 For the purposes of this paragraph, "alien corporation" means a
4 corporation organized under the laws of a jurisdiction other than the
5 United States or its political subdivisions.

6 (11) No deduction shall be allowed for research and
7 experimental expenditures, to the extent that those research and
8 experimental expenditures are qualified research expenses or basic
9 research payments for which an amount of credit is claimed pursuant
10 to section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research
11 and experimental expenditures are also used to compute a federal
12 credit claimed pursuant to section 41 of the federal Internal Revenue
13 Code of 1986, 26 U.S.C. s.41; provided, however, for privilege periods
14 beginning on and after January 1, 2022, a deduction for research and
15 experimental expenditures shall be allowed during the same privilege
16 period for which a credit is claimed pursuant to section 1 of P.L.1993,
17 c.175 (C.54:10A-5.24), notwithstanding the timing schedule required
18 by the federal Internal Revenue Code of 1986, 26 U.S.C. s.174, for the
19 deduction of specified research and experimental expenditures.

20 (12) (A) Notwithstanding the provisions of subsection (k) of
21 section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C.
22 s.168, subsection (b) of section 1400L of the federal Internal Revenue
23 Code of 1986, 26 U.S.C. s.1400L, or any other federal law, for
24 property acquired after September 10, 2001, the depreciation
25 deduction otherwise allowed pursuant to section 167 of the federal
26 Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined
27 pursuant to the provisions of the federal Internal Revenue Code of
28 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001.

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

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

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

46 (14) Notwithstanding the provisions of subsection (i) of section
47 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
48 for privilege periods beginning after December 31, 2008 and before

1 January 1, 2011, entire net income shall include the amount of
2 discharge of indebtedness income excluded for federal income tax
3 purposes pursuant to subsection (i) of section 108 of the federal
4 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
5 periods beginning on or after January 1, 2014 and before January 1,
6 2019, entire net income shall exclude the amount of discharge of
7 indebtedness income included for federal income tax purposes,
8 pursuant to subsection (i) of section 108 of the federal Internal
9 Revenue Code of 1986 (26 U.S.C. s.108).

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

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

18 (B) For purposes of this paragraph, "net deferred tax liability"
19 means deferred tax liabilities that exceed the deferred tax assets of the
20 combined group, as computed in accordance with generally accepted
21 accounting principles, and "net deferred tax asset" means that deferred
22 tax assets exceed the deferred tax liabilities of the combined group, as
23 computed in accordance with generally accepted accounting
24 principles.

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

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

36 (E) (i) Beginning with the combined group's first privilege period
37 on or after January 1 of the fifth year after the effective date of
38 P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
39 entitled to a deduction from combined group entire net income equal
40 to one-tenth of the amount necessary to offset the increase in the net
41 deferred tax liability or decrease in the net deferred tax asset, or
42 aggregate change from a net deferred tax asset to a net deferred tax
43 liability, according to the schedule provided by subsubparagraphs (ii)
44 and (iii) of this subparagraph (E). Such increase in the net deferred tax
45 liability or decrease in the net deferred tax asset or the aggregate
46 change from a net deferred tax asset to a net deferred tax liability shall
47 be computed based on the change that would result from the
48 imposition of the unitary reporting requirements under sections 1 and

1 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
2 C.54:10A-4.11) but for the deduction provided under this paragraph as
3 of the effective date of this paragraph.

4 (ii) For group privilege periods beginning on and after January 1,
5 2023, but before January 1, 2030, the combined group may deduct one
6 percent of the amount necessary to offset the increase in the net
7 deferred tax liability or decrease in the net deferred tax asset, or
8 aggregate change from a net deferred tax asset to a net deferred tax
9 liability, during a group privilege period. Such increase in the net
10 deferred tax liability or decrease in the net deferred tax asset or the
11 aggregate change from a net deferred tax asset to a net deferred tax
12 liability shall be computed based on the change that would result from
13 the imposition of the unitary reporting requirements under sections 1
14 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-
15 4.6 to C.54:10A-4.11) but for the deduction provided under this
16 paragraph as of the effective date of this paragraph.

17 (iii) For group privilege periods beginning on and after January 1,
18 2030, the combined group may deduct up to five percent of any
19 remaining unused amount of the deduction during the group privilege
20 period, until the group privilege period in which the total deduction
21 amount has been fully utilized. Such increase in the net deferred tax
22 liability or decrease in the net deferred tax asset or the aggregate
23 change from a net deferred tax asset to a net deferred tax liability shall
24 be computed based on the change that would result from the
25 imposition of the unitary reporting requirements under sections 1 and
26 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
27 C.54:10A-4.11) but for the deduction provided under this paragraph as
28 of the effective date of this paragraph.

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

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

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

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

43 (G) The deduction calculated under this paragraph shall not be
44 adjusted as a result of any events happening subsequent to such
45 calculation, including, but not limited to, any disposition or
46 abandonment of assets. Such deduction shall be calculated without
47 regard to the federal tax effect and shall not alter the tax basis of any
48 asset. If the deduction under this section is greater than combined

1 group entire net income, any excess deduction shall be carried forward
2 and applied as a deduction to combined group entire net income in
3 future privilege periods until fully utilized.

4 (H) Any combined group intending to claim a deduction under this
5 paragraph shall file a statement with the director on or before July 1 of
6 the year subsequent to the first privilege period for which a combined
7 return is required. Such statement shall specify the total amount of the
8 deduction which the combined group claims on such form and in such
9 manner as prescribed by the director. No deduction shall be allowed
10 under this paragraph for any privilege period except to the extent
11 claimed on such timely filed statement in accordance with this
12 paragraph.

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

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

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

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

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

42 (B) For a non-U.S. corporation that files a federal tax return and is
43 not a member of a combined group filing a New Jersey combined
44 return on a world-wide basis pursuant to subsection b. of section 23 of
45 P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall only
46 include its income or loss included in federal taxable income, which
47 shall be limited to only the non-U.S. corporation's effectively
48 connected income or loss, as modified by the provisions of the

1 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et
2 seq.), and the items of expense and the allocation factor receipts
3 attributable to such items of income or loss.

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

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

42 (n) "International banking facility" shall mean a set of asset and
43 liability accounts segregated on the books and records of a depository
44 institution, United States branch or agency of a foreign bank, or an
45 Edge or Agreement Corporation that includes only international
46 banking facility time deposits and international banking facility
47 extensions of credit as such terms are defined in section 204.8(a)(2)
48 and section 204.8(a)(3) of Regulation D of the board of governors of

1 the Federal Reserve System, 12 CFR Part 204, effective December 3,
2 1981. In the event that the United States enacts a law, or the board of
3 governors of the Federal Reserve System adopts a regulation which
4 amends the present definition of international banking facility or of
5 such facilities' time deposits or extensions of credit, the Commissioner
6 of Banking and Insurance shall forthwith adopt regulations defining
7 such terms in the same manner as such terms are set forth in the laws
8 of the United States or the regulations of the board of governors of the
9 Federal Reserve System. The regulations of the Commissioner of
10 Banking and Insurance shall thereafter provide the applicable
11 definitions.

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

15 (p) "New Jersey S corporation" means a taxpayer that has made a
16 valid election to be an S corporation for federal tax purposes, and that
17 has not made a valid election pursuant to subsection d. of section
18 ¹[20] ³ of ¹[P.L.2022, c.133] P.L.1993, c.173¹ (C.54:10A-5.22).

19 (q) "Public Utility" means "public utility" as defined in R.S.48:2-
20 13.

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

33 (s) "Savings institution" means a state or federally chartered
34 building and loan association, savings and loan association, or savings
35 bank.

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

38 (u) "Prior net operating loss conversion carryover" means a net
39 operating loss incurred in a privilege period ending prior to July 31,
40 2019 and converted from a pre-allocation net operating loss to a post-
41 allocation net operating loss as follows:

42 (1) As used in this subsection:

43 "Base year" means the last privilege period ending prior to July 31,
44 2019.

45 "Base year BAF" means the taxpayer's business allocation factor as
46 provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6
47 through C.54:10A-10) for purposes of calculating entire net income for

1 the base year, as such section was in effect for the last privilege period
2 ending prior to July 31, 2019.

3 "UNOL" means the unabsorbed portion of net operating loss as
4 calculated under paragraph (6) of subsection (k) of this section as such
5 paragraph was in effect for the last privilege period ending prior to
6 July 31, 2019, that was not deductible in previous privilege periods
7 and was eligible for carryover on the last day of the base year subject
8 to the limitations for deduction under such subsection, including any
9 net operating loss sustained by the taxpayer during the base year.

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

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

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

39 (C) The prior net operating loss conversion carryover computed
40 under this subsection shall be applied against the entire net income
41 allocated to this State before the net operating loss carryover computed
42 under subsection (v) of this section.

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

46 (1) Net operating loss carryover. A net operating loss for any
47 privilege period ending on or after July 31, 2019, shall be a net
48 operating loss carryover to each of the twenty privilege periods

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

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

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

35 (4) A net operating loss carryover shall not include any net
36 operating loss incurred during any privilege period ending prior to July
37 31, 2019.

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

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

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

38 For purposes of this subsection:

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

47 "Commonly owned" means that more than 50 percent of the voting
48 control of each member of an affiliated group is directly or indirectly

1 owned by a common owner or owners, either corporate or non-
2 corporate, whether or not the owner or owners are members of the
3 affiliated group. Whether voting control is indirectly owned shall be
4 determined in accordance with section 318 of the federal Internal
5 Revenue Code (26 U.S.C. s.318).

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

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

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

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

18 (4) 50% or less of whose gross receipts for the privilege period
19 consist of premiums from arrangements that constitute insurance for
20 federal income tax purposes.

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

27 For purposes of this definition:

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

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

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

46 (z) "Combined group" means the group of all companies that have
47 common ownership and are engaged in a unitary business, where at
48 least one company is subject to tax under this chapter, and shall

1 include all business entities, except as provided for under any section
2 of the Corporation Business Tax Act (1945), P.L.1945, c.162
3 (C.54:10A-1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

45 For privilege periods ending on and after July 31, 2023, any voting
46 stock in an investment company that is held in a segregated asset
47 account of a life insurance corporation, as described in section 817 of
48 the Internal Revenue Code, shall not be taken into account for

1 purposes of determining whether an investment company is a captive
2 regulated investment company.

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

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

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

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

43 As used in this subsection:

44 "Australian property trust" means an Australian unit trust that is
45 registered as a managed investment scheme under the Australian
46 Corporations Act, and in which the principal class of units is listed on
47 a recognized stock exchange in Australia and is regularly traded on an
48 established securities market; or an entity organized as a trust,

1 provided that a listed Australian property trust owns or controls,
2 directly or indirectly, 75 percent or more of the voting power or value
3 of the beneficial interests of shares of the trust.

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

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

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

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

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

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

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

37 For privilege periods ending on and after July 31, 2023, any voting
38 stock in a regulated investment company that is held in a segregated
39 asset account of a life insurance corporation, as described in section
40 817 of the Internal Revenue Code (26 U.S.C. s.817), shall not be taken
41 into account for purposes of determining whether a regulated
42 investment company is a captive regulated investment company.

43 For privilege periods ending on and after July 31, 2023, a captive
44 regulated investment company shall be taxed in the same manner as a
45 C corporation and subsection d. of section 5 of P.L.1945, c.162
46 (C.54:10A-5) shall not apply. A captive real estate investment
47 company shall not be permitted to claim any deductions or expenses
48 that were permitted for federal purposes, solely as a result of the entity

1 being a regulated investment company, when computing federal
2 taxable net income. A captive regulated investment company shall be
3 a member of a combined group and shall be included as a member on
4 the combined return.

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

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

30

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

32 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
33 income shall consist of the following categories of income:

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

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

46 (1) taxes based on income;

47 (2) a civil, civil administrative, or criminal penalty or fine,
48 including a penalty or fine under an administrative consent order,

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

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

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

33 A taxpayer's net gain or loss on the sale, exchange or other
34 disposition of a share of an S corporation shall be calculated by
35 increasing the adjusted basis of the share by an amount equal to the
36 shareholder's net losses and deductions in respect of the share
37 allowed and deducted from income for federal income tax purposes,
38 not including any personal net operating loss deductions, to the
39 extent that such net losses were not offset by the taxpayer's pro rata
40 share of S corporation income otherwise subject to taxation
41 pursuant to subsection p. of this section in respect of another S
42 corporation, subject to rules of priority and assignment determined
43 by the director.

44 For the tax year 1976, any taxpayer with a tax liability under this
45 subsection, or under the "Tax on Capital Gains and Other Unearned
46 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
47 subject to payment of an amount greater than the amount he would
48 have paid if either return had covered all capital transactions during

1 the full tax year 1976; provided, however, that the rate which shall
2 apply to any capital gain shall be that in effect on the date of the
3 transaction. To the extent that any loss is used to offset any gain
4 under P.L.1975, c.172, it shall not be used to offset any gain under
5 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

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

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

33 (i) A statutory merger or consolidation;

34 (ii) The acquisition by one corporation, in exchange solely for
35 all or part of its voting stock (or in exchange solely for all or a part
36 of the voting stock of a corporation which is in control of the
37 acquiring corporation) of stock of another corporation if,
38 immediately after the acquisition, the acquiring corporation has
39 control of such other corporation (whether or not such acquiring
40 corporation had control immediately before the acquisition);

41 (iii) The acquisition by one corporation, in exchange solely for
42 all or part of its voting stock (or in exchange solely for all or a part
43 of the voting stock of a corporation which is in control of the
44 acquiring corporation), of substantially all of the properties of
45 another corporation, but in determining whether the exchange is
46 solely for stock the assumption by the acquiring corporation of a
47 liability of the other, or the fact that property acquired is subject to
48 a liability, shall be disregarded;

1 (iv) A transfer by a corporation of all or a part of its assets to
2 another corporation if immediately after the transfer the transferor,
3 or one or more of its shareholders (including persons who were
4 shareholders immediately before the transfer), or any combination
5 thereof, is in control of the corporation to which the assets are
6 transferred;

7 (v) A recapitalization;

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

10 (vii) The acquisition by one corporation, in exchange for stock of
11 a corporation (referred to in this subclause as "controlling
12 corporation") which is in control of the acquiring corporation, of
13 substantially all of the properties of another corporation which in
14 the transaction is merged into the acquiring corporation shall not
15 disqualify a transaction under subclause (i) if such transaction
16 would have qualified under subclause (i) if the merger had been into
17 the controlling corporation, and no stock of the acquiring
18 corporation is used in the transaction;

19 (viii) A transaction otherwise qualifying under subclause (i) shall
20 not be disqualified by reason of the fact that stock of a corporation
21 (referred to in this subclause as the "controlling corporation") which
22 before the merger was in control of the merged corporation is used
23 in the transaction, if after the transaction, the corporation surviving
24 the merger holds substantially all of its properties and of the
25 properties of the merged corporation (other than stock of the
26 controlling corporation distributed in the transaction); and in the
27 transaction, former shareholders of the surviving corporation
28 exchanged, for an amount of voting stock of the controlling
29 corporation, an amount of stock in the surviving corporation which
30 constitutes control of such corporation.

31 For purposes of this clause, the term "control" means the
32 ownership of stock possessing at least 80% of the total combined
33 voting power of all classes of stock entitled to vote and at least 80%
34 of the total number of shares of all other classes of stock of the
35 corporation.

36 For purposes of this clause, the term "a party to a reorganization"
37 includes a corporation resulting from a reorganization, and both
38 corporations, in the case of a reorganization resulting from the
39 acquisition by one corporation of stock or properties of another. In
40 the case of a reorganization qualifying under subclause (i) by reason
41 of subclause (vii) the term "a party to a reorganization" includes the
42 controlling corporation referred to in such subclause (vii).

43 Notwithstanding any provisions hereof, upon every such
44 exchange or conversion, the taxpayer's basis for the stock or
45 securities received shall be the same as the taxpayer's actual or
46 attributed basis for the stock, securities or property surrendered in
47 exchange therefor.

- 1 d. Net gains or net income derived from or in the form of rents,
2 royalties, patents, and copyrights.
- 3 e. Interest, except interest referred to in clause (1) or (2) of
4 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
5 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
6 extent provided in that section.
- 7 f. Dividends. "Dividends" means any distribution in cash or
8 property made by a corporation, association or business trust that is
9 not an S corporation, (1) out of accumulated earnings and profits, or
10 (2) out of earnings and profits of the year in which such dividend is
11 paid and any distribution in cash or property made by an S
12 corporation, as specifically determined pursuant to section 16 of
13 P.L.1993, c.173 (C.54A:5-14).
- 14 The term "dividends" shall not include distributions paid by a
15 qualified investment fund as defined in section 2 of P.L.1987, c.310
16 (C.54A:6-14.1), to the extent provided in that section.
- 17 g. Gambling winnings.
- 18 h. Net gains or income derived through estates or trusts.
- 19 i. Income in respect of a decedent.
- 20 j. Amounts distributed or withdrawn from an employee trust
21 attributable to contributions to the trust which were excluded from
22 gross income under the provisions of chapter 6 of Title 54A of the
23 New Jersey Statutes, amounts rolled over from an IRA, as defined
24 pursuant to subsection (a) of section 408 of the federal Internal
25 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
26 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
27 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
28 annuities except to the extent of exclusions in N.J.S.54A:6-10
29 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
30 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
31 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
32 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
33 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,
34 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
35 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
36 and P.L.1943, c.189, s.5 (C.43:13-37.5).
- 37 k. Distributive share of partnership income, excluding the gain
38 or income derived from the sale or assignment of a tax credit
39 transfer certificate pursuant to section 7 of P.L.2011, c.149
40 (C.34:1B-248) **[and]**, section 10 of P.L.2014, c.63 (C.34:1B-251),
41 or the "New Jersey Economic Recovery Act of 2020," P.L.2020,
42 c.156 (C.34:1B-269 et al.), as amended and supplemented, from any
43 sale or assignment of a tax credit issued pursuant to an award of tax
44 credits approved by the New Jersey Economic Development
45 Authority **[prior to July 1, 2018]**, regardless of when such sale or
46 assignment occurs.
- 47 l. Amounts received as prizes and awards, except as provided
48 in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

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

3 n. Alimony and separate maintenance payments to the extent
4 that such payments are required to be made under a decree of
5 divorce or separate maintenance but not including payments for
6 support of minor children.

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

10 p. Net pro rata share of S corporation income, excluding the
11 gain 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 P.L.2014, c.63 (C.34:1B-251), or
14 the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156
15 (C.34:1B-269 et al.), as amended and supplemented, from any sale
16 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 (cf: P.L.2018, c.131, s.8)

21
22 16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read
23 as follows:

24 1. a. The New Jersey Economic Development Authority shall
25 adopt rules and regulations requiring that not less than the prevailing
26 wage rate be paid to workers employed in the performance of any
27 construction contract, including contracts for millwork fabrication,
28 undertaken in connection with authority financial assistance or any of
29 its projects, those projects which it undertakes pursuant to P.L.2002,
30 c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of
31 receiving authority financial assistance, including the performance of
32 any contract to construct, renovate or otherwise prepare a facility for
33 operations which are necessary for the receipt of authority financial
34 assistance, unless the work performed under the contract is performed
35 on a facility owned by a landlord of the entity receiving the assistance
36 and less than 35 percent of the facility is leased by the entity at the
37 time of the contract and under any agreement to subsequently lease the
38 facility. The prevailing wage rate shall be the rate determined by the
39 Commissioner of Labor and Workforce Development pursuant to the
40 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
41 purposes of this section, "authority financial assistance" means any
42 loan, loan guarantee, grant, incentive, tax exemption or other financial
43 assistance that is approved, funded, authorized, administered or
44 provided by the authority to any entity and is provided before, during
45 or after completion of a project, including but not limited to, all
46 authority financial assistance received by the entity pursuant to the
47 "Business Employment Incentive Program Act," P.L.1996, c.26
48 (C.34:1B-124 et al.) that enables the entity to engage in a construction

1 contract, but this section shall not be construed as requiring the
2 payment of the prevailing wage for construction commencing more
3 than two years after an entity has executed with the authority a
4 commitment letter regarding authority financial assistance and the first
5 payment or other provision of the assistance is received.

6 b. The New Jersey Economic Development Authority shall adopt
7 rules and regulations requiring that not less than the prevailing wage
8 rate be paid to workers employed in the performance of any contract,
9 for construction, demolition, remediation, removal of hazardous
10 substances, alteration, custom fabrication, repair work, or maintenance
11 work, including painting and decorating, or excavation, grading, pile
12 driving, concrete form, or other types of foundation work in
13 connection with the "New Jersey Community-Anchored Development
14 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
15 34:1B-321), the "New Jersey Aspire Program Act," sections 54
16 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
17 and the "¹**【New Jersey】**¹ Emerge Program Act," sections 68 through
18 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this
19 subsection shall apply to any site preparation work performed 24
20 months prior to and during the incentive eligibility period of any
21 project receiving tax credits under the "New Jersey Community-
22 Anchored Development Act," sections 43 through 53 of P.L.2020,
23 c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
24 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
25 322 through C.34:1B-335), and the "¹**【New Jersey】**¹ Emerge Program
26 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.),
27 and to projects receiving financial assistance under the
28 "Redevelopment Project Bridge Financing Program," established
29 pursuant to section 11 of P.L. , c. (C.) (pending before the
30 Legislature as this bill), in which there is a continuity of ownership in
31 the site of the redevelopment project, including work undertaken to
32 fulfill any condition of receiving tax credits under the programs. Work
33 that is subject to the requirements of this subsection shall include the
34 performance of any contract for construction, demolition, remediation,
35 removal of hazardous substances, alteration, custom fabrication, repair
36 work, or maintenance work, including painting and decorating, or
37 excavation, grading, pile driving, concrete form, or other types of
38 foundation work undertaken on a facility for operations which are
39 necessary for the receipt of tax credits under the "New Jersey
40 Community-Anchored Development Act," sections 43 through 53 of
41 P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey
42 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
43 (C.34:1B-322 through C.34:1B-335), and the "¹**【New Jersey】**¹
44 Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
45 (C.34:1B-336 et al.), or the receipt of financial assistance under the
46 "Redevelopment Project Bridge Financing Program," established
47 pursuant to section 11 of P.L. , c. (C.) (pending before the
48 Legislature as this bill), unless the work performed under the contract

1 is performed on a facility owned by a landlord of the entity receiving
2 the tax credit and less than 35 percent of the facility is leased by the
3 entity at the time of the contract and under any agreement to
4 subsequently lease the facility. The prevailing wage rate shall be the
5 rate determined by the Commissioner of Labor and Workforce
6 Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-
7 56.25 et seq.), and all contractors and subcontractors subject to the
8 prevailing wage requirement set forth in this section shall be registered
9 with the Department of Labor and Workforce Development pursuant
10 to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
11 applicant for tax credits under the "New Jersey Community-Anchored
12 Development Act," sections 43 through 53 of P.L.2020, c.156
13 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire Program
14 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
15 C.34:1B-335), and the "**1**[New Jersey]**1** Emerge Program Act,"
16 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall
17 certify under penalty of perjury as part of its application that all
18 construction contracts undertaken on any project in connection with an
19 award under the programs comply with the prevailing wage
20 requirements of this subsection. If at any time the authority
21 determines that the developer made a material misrepresentation
22 regarding compliance with the provisions of this subsection on the
23 developer's application, the developer shall forfeit 35 percent of the tax
24 credits allowed under the programs, and pay to the affected workers
25 back wages in an amount that compensates the workers at the
26 prevailing wage rate for the work performed.
27 (cf: P.L.2020, c.156, s.112)

28

29 17. This act shall take effect immediately.