

[Second 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:**

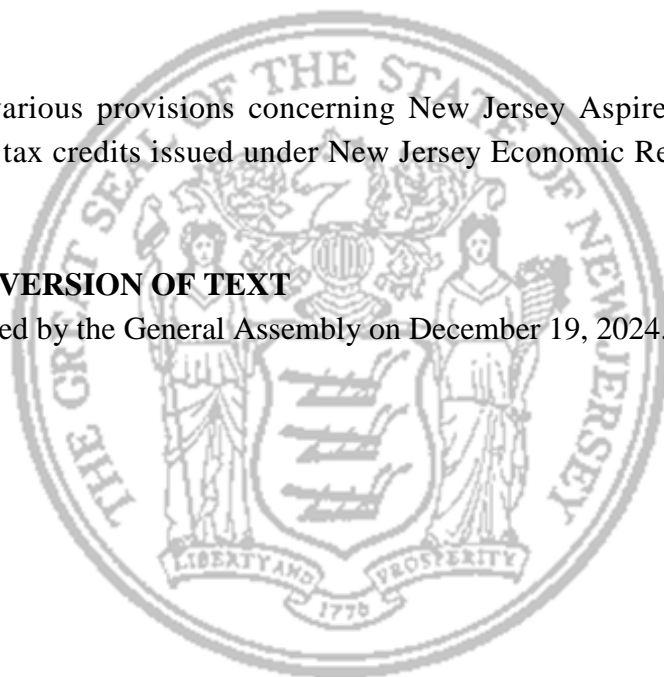
**Assemblywomen Reynolds-Jackson and Speight**

**SYNOPSIS**

Revises various provisions concerning New Jersey Aspire Program and surrender of tax credits issued under New Jersey Economic Recovery Act of 2020.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on December 19, 2024.



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

1 AN ACT concerning the New Jersey Aspire Program, amending  
2 <sup>2</sup>[various parts of the statutory law] P.L.2020, c.156 and  
3 P.L.2023, c.98<sup>2</sup>, and supplementing P.L.2020, c.156.

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

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

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

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

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

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

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

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

41 "Cash flow" means the profit or loss that an investment property  
42 earns from rent, deposits, and other fees after financial obligations,

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:

<sup>1</sup>Senate SBA committee amendments adopted June 26, 2024.

<sup>2</sup>Assembly floor amendments adopted December 19, 2024.

1 such as debt, maintenance, government payments, and other  
2 expenses, have been paid.

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

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

33 "Developer" means a person who enters or proposes to enter into  
34 an incentive award agreement pursuant to the provisions of section  
35 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to  
36 a lender that completes a redevelopment project, operates a  
37 redevelopment project, or completes and operates a redevelopment  
38 project.

39 "Director" means the Director of the Division of Taxation in the  
40 Department of the Treasury.

41 "Distressed municipality" means a municipality that is qualified  
42 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a  
43 municipality under the supervision of the Local Finance Board  
44 pursuant to the provisions of the "Local Government Supervision  
45 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality  
46 identified by the Director of the Division of Local Government  
47 Services in the Department of Community Affairs to be facing

1 serious fiscal distress, a SDA municipality, or a municipality in  
2 which a major rail station is located.

3 "Economic development incentive" means a financial incentive,  
4 awarded by the authority, or agreed to between the authority and a  
5 business or person, for the purpose of stimulating economic  
6 development or redevelopment in New Jersey, including, but not  
7 limited to, a bond, grant, loan, loan guarantee, matching fund, tax  
8 credit, or other tax expenditure.

9 "Eligibility period" means the period not to exceed <sup>2</sup>[15] 10<sup>2</sup>  
10 years <sup>2</sup>[for a commercial or mixed-use project or the period not to  
11 exceed 10 years for a residential project] , as<sup>2</sup> specified in an  
12 incentive award agreement during which a developer may claim a  
13 tax credit under the program, as such period shall be determined by  
14 the authority pursuant to subsection b. of section 60 of P.L.2020,  
15 c.156 (C.34:1B-328) <sup>2</sup>, provided that a developer may elect a period  
16 not to exceed five years for a project located in a government-  
17 restricted municipality or for a special mission non-profit project<sup>2</sup>.

18 "Enhanced area" means (1) a municipality that contains an urban  
19 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-  
20 208); (2) the five municipalities with the highest poverty rates  
21 according to the 2017 Municipal Revitalization Index; and (3) the  
22 three municipalities with the highest percentage of SNAP recipients  
23 according to the 2017 Municipal Revitalization Index.

24 "Environmental remediation costs" means any costs incurred by  
25 a developer in the completion of any actions necessary to  
26 investigate, clean up, or respond to a known, suspected, or  
27 threatened discharge of contaminants, including, as necessary, the  
28 preliminary assessment, site investigation, remedial investigation,  
29 and remedial action, pursuant to sections 23 through 43 and section  
30 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

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

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

42 "Government-restricted municipality" means a municipality in  
43 this State with a municipal revitalization index distress score of at  
44 least 75, that met the criteria for designation as an urban aid  
45 municipality in the 2019 State fiscal year, and that, on the effective  
46 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial  
47 restrictions imposed pursuant to the "Municipal Stabilization and

1 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is  
 2 restricted in its ability to levy property taxes on property in that  
 3 municipality as a result of the State of New Jersey owning or  
 4 controlling property representing at least 25 percent of the total land  
 5 area of the municipality or as a result of the federal government of  
 6 the United States owning or controlling at least 50 acres of the total  
 7 land area of the municipality, which is dedicated as a national  
 8 natural landmark. <sup>2</sup>The term "government-restricted municipality"  
 9 also includes any municipality that: has a population greater than  
 10 50,000 and less than 60,000 according to the latest federal decennial  
 11 census, is designated as the county seat of a county of the second  
 12 class with a population greater than 800,000 according to the latest  
 13 federal decennial census, and has an MRI distress score of 62.1; has  
 14 a population greater than 70,000 and less than 100,000 according to  
 15 the latest federal decennial census, is designated as the county seat  
 16 of a county of the second class with a population greater than  
 17 515,000 and less than 525,000 according to the latest federal  
 18 decennial census, and has an MRI distress score of 100; or contains  
 19 the intersection of Interstate 280 and the Garden State Parkway, and  
 20 corresponding land areas occupied by such highways under the  
 21 ownership or control of the federal government of the United States  
 22 or of this State within its municipal boundary, and has an MRI  
 23 distress score of 55.5.<sup>2</sup>

24 "Health care or health services center" means an establishment  
 25 that consists of not less than 10,000 square feet devoted to health  
 26 care or health services, where patients are admitted for or seek  
 27 examination and treatment by one or more physicians, dentists,  
 28 psychologists, or other medical practitioners, and which is located  
 29 in a municipality with a <sup>2</sup>**【Municipal Revitalization Index】 MRI**<sup>2</sup>  
 30 distress score of at least 50, a distressed municipality, or a qualified  
 31 incentive tract.

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

35 "Incentive area" means an aviation district; a port district; an  
 36 area designated pursuant to the "State Planning Act," P.L.1985,  
 37 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan),  
 38 Planning Area 2 (Suburban), **【or】** <sup>2</sup>or<sup>2</sup> a Designated Center **【,】**<sup>2</sup>  
 39 **【provided an area designated as Planning Area 2 (Suburban) or a**  
 40 **Designated Center shall be located within a one-half mile radius of**  
 41 **the mid-point, with bicycle and pedestrian connectivity, of a New**  
 42 **Jersey Transit Corporation, Port Authority Transit Corporation, or**  
 43 **Port Authority Trans-Hudson Corporation rail, bus, or ferry station,**  
 44 **including all light rail stations, or a high-frequency bus stop as**  
 45 **certified by the New Jersey Transit Corporation】** <sup>2</sup>**【or an Endorsed**  
 46 **Plan】 under the State Development and Redevelopment Plan**<sup>2</sup>; an  
 47 area designated as a brownfield site pursuant to the "Brownfield and

1 Contaminated Site Remediation Act," sections 23 through 43 and  
2 section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.); and an area of  
3 not less than 100 acres for which a licensed site remediation  
4 professional has certified environmental remediation costs, as  
5 defined in this section and in accordance with the "Site Remediation  
6 Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1  
7 et seq.), in an amount not less than \$10,000,000, provided that any  
8 portion of such area is located in an area that otherwise qualifies as  
9 an incentive area.

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

14 "Incentive award agreement" means the contract executed  
15 between a developer and the authority pursuant to section 60 of  
16 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and  
17 conditions under which the developer may receive the incentive  
18 awards authorized pursuant to the provisions of sections 54 through  
19 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

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

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

34 "Labor harmony agreement" means an agreement between a  
35 business that serves as the owner or operator of a retail  
36 establishment, hospitality establishment, or distribution center and  
37 one or more labor organizations, which requires, for the duration of  
38 the agreement: that any participating labor organization and its  
39 members agree to refrain from picketing, work stoppages, boycotts,  
40 or other economic interference against the business; and that the  
41 business agrees to maintain a neutral posture with respect to efforts  
42 of any participating labor organization to represent employees at an  
43 establishment or other unit in the retail establishment, hospitality  
44 establishment, or distribution center, agrees to permit the labor  
45 organization to have access to the employees, and agrees to  
46 guarantee to the labor organization the right to obtain recognition as  
47 the exclusive collective bargaining representatives of the employees  
48 in an establishment or unit at the retail establishment, hospitality

1 establishment, or distribution center by demonstrating to the New  
2 Jersey State Board of Mediation, Division of Private Employment  
3 Dispute Settlement, or a mutually agreed-upon, neutral, third party  
4 that a majority of workers in the unit have shown their preference  
5 for the labor organization to be their representative by signing  
6 authorization cards indicating that preference. The labor  
7 organization or organizations shall be from a list of labor  
8 organizations which have requested to be on the list and which the  
9 Commissioner of Labor and Workforce Development has  
10 determined represent substantial numbers of retail establishment,  
11 hospitality establishment, or distribution center employees in the  
12 State.

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

20 "Major cultural institution" means a public or nonprofit  
21 institution, not including an institution of higher education, within  
22 this State that engages in the cultural, intellectual, scientific,  
23 environmental, educational, or artistic enrichment of the people of  
24 this State, and which institution is designated by the board as a  
25 major cultural institution.

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

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

37 <sup>2</sup>["Mixed-use project" means a redevelopment project that  
38 includes both a residential component and a nonresidential  
39 component.]<sup>2</sup>

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

1 <sup>2</sup>"MRI distress score" means a municipal revitalization index  
 2 distress score, as documented in the 2023 Municipal Revitalization  
 3 Index developed by the Department of Community Affairs.<sup>2</sup>

4 "Municipal Revitalization Index" means the index by the  
 5 Department of Community Affairs ranking New Jersey's  
 6 municipalities according to eight separate indicators that measure  
 7 diverse aspects of social, economic, physical, and fiscal conditions  
 8 in each locality.

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

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

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

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

21 "Project cost" or "<sup>1</sup>~~total~~ eligible<sup>1</sup> project cost" means the costs  
 22 incurred in connection with a redevelopment project by a developer  
 23 until the issuance of a permanent certificate of occupancy, or until  
 24 such other time specified by the authority, for a specific investment  
 25 or improvement, including the costs relating to lands, except the  
 26 cost of acquiring such lands, buildings, improvements, real or  
 27 personal property, or any interest therein, including leases  
 28 discounted to present value, including lands under water, riparian  
 29 rights, space rights, and air rights acquired, owned, developed or  
 30 redeveloped, constructed, reconstructed, rehabilitated, or improved,  
 31 any environmental remediation costs, plus costs not directly related  
 32 to construction, including capitalized interest paid to third parties,  
 33 of an amount not to exceed 20 percent of the total costs and the cost  
 34 of infrastructure improvements, including ancillary infrastructure  
 35 projects. When 100 percent of the residential units constructed in a  
 36 residential project are reserved for occupancy by low- and  
 37 moderate-income households, the term "project cost" shall also  
 38 include the developer fees paid before acquiring permanent  
 39 financing, as well as the deferred developer fees approved pursuant  
 40 to the rules established by the agency. In addition to the foregoing,  
 41 the term "project cost" shall include <sup>2</sup>[the following costs when  
 42 incurred by a developer] ,<sup>2</sup> for a redevelopment project located in a  
 43 <sup>2</sup>[government restricted] government-restricted<sup>2</sup> municipality <sup>2</sup>[:  
 44 any development, redevelopment, and relocation costs, including,  
 45 but not limited to]<sup>2</sup>, land <sup>1</sup>[and] costs <sup>2</sup>[, which land costs shall be  
 46 capped at no more than] in an amount not to exceed<sup>2</sup> 20 percent of  
 47 the <sup>2</sup>[total] eligible<sup>2</sup> project cost <sup>2</sup>[:<sup>1</sup> building acquisition costs;



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

12 "Project financing gap" means the part of the total project cost,  
13 including reasonable and appropriate return on investment, that  
14 remains to be financed after all other sources of capital have been  
15 accounted for, including, but not limited to developer contributed  
16 capital, which shall not be less than 20 percent of the <sup>1</sup>[total]<sup>1</sup>  
17 <sup>2</sup>total<sup>2</sup> project cost, and investor or financial entity capital or loans  
18 for which the developer, after making all good faith efforts to raise  
19 additional capital, certifies that additional capital cannot be raised  
20 from other sources on a non-recourse basis; provided, however, that  
21 for a redevelopment project located in a government-restricted  
22 municipality, the developer contributed capital shall not be less than  
23 10 percent of the <sup>1</sup>[total]<sup>1</sup> <sup>2</sup>total<sup>2</sup> project cost. Developer  
24 contributed capital may consist of cash, deferred development fees,  
25 costs for project feasibility incurred within the 12 months prior to  
26 application, property value less any mortgages when the developer  
27 owns the project site, and any other investment by the developer in  
28 the project deemed acceptable by the authority, as provided by  
29 regulations promulgated by the authority. Property value shall be  
30 valued at the lesser of: (i) the purchase price, provided the property  
31 was purchased pursuant to an arm's length transaction within 12  
32 months of application; or (ii) the value as determined by a current  
33 appraisal.

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

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

44 "Quality childcare facility" is a child care center licensed by the  
45 Department of Children and Families or a registered family child  
46 care home with the Department of Human Services, operating  
47 continuously, which has not been subject to an enforcement action,

1 and which has and maintains a licensed capacity for children age 13  
2 years or younger who attend for less than 24 hours a day.

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

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

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

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

37 "SDA municipality" means a municipality in which an SDA  
38 district is situated.

39 <sup>1</sup>"Special mission non-profit project" means a project located in  
40 a government-restricted municipality or in an enhanced area that:  
41 serves a special mission, as determined by the authority, to  
42 accomplish the public purpose of a non-profit that is a developer of  
43 or is affiliated with the project; and includes no more than 100 units  
44 of 100 percent <sup>2</sup>[affordable] supportive<sup>2</sup> housing units <sup>2</sup>for tenants  
45 requiring special needs or social services, which social services may  
46 include licensed social workers,<sup>2</sup> and no more than <sup>2</sup>[10,000]  
47 25,000<sup>2</sup> square feet of commercial space <sup>2</sup>for the provision of on-  
48 site social service programs that require a license from the

1 Department of Children and Families as a licensed child care center.  
2 Special mission non-profit projects shall be exempt from the net  
3 benefit test requirement, affordable housing requirements, and the  
4 requirement to provide a market study as part of its application to  
5 the authority<sup>2</sup>.<sup>1</sup>

6 <sup>2</sup>["Stranded asset" means any building previously used for  
7 commercial, retail, office space, manufacturing, or industrial  
8 purposes, which building is no longer used for such purposes, and  
9 which has been abandoned, experienced significant vacancies for at  
10 least two consecutive years, or has fallen into such disrepair as to be  
11 untenable. <sup>1</sup>"Stranded asset" includes vacant land that has been  
12 left fallow for at least two consecutive years because of  
13 environmental contamination.

14 "Targeted industry" means any industry identified from time to  
15 time by the authority, which industry shall initially include  
16 advanced transportation and logistics, advanced manufacturing,  
17 aviation, autonomous vehicle and zero-emission vehicle research or  
18 development, clean energy, life sciences, hemp processing,  
19 information and high technology, finance and insurance,  
20 professional services, film and digital media, non-retail food and  
21 beverage businesses including food innovation, and other  
22 innovative industries that disrupt current technologies or business  
23 models.<sup>1</sup><sup>2</sup>

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

33 "Total [project] <sup>1</sup>[development] project<sup>1</sup> cost" <sup>1</sup>[or "total  
34 redevelopment cost"]<sup>1</sup> means the costs incurred in connection with  
35 the redevelopment project by the developer until the issuance of a  
36 permanent certificate of occupancy, or upon such other event  
37 evidencing project completion as set forth in the incentive grant  
38 agreement, for a specific investment or improvement.

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

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

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

14 "Transit Village" means a municipality that has been designated  
15 as a transit village by the Commissioner of Transportation and the  
16 Transit Village Task Force <sup>1</sup>【established pursuant to P.L.1985,  
17 c.398 (C.27:1A-5)】<sup>1</sup>.

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

19

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

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

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

1 distributions,] <sup>2</sup>bedroom distributions,<sup>2</sup> affordability averages,  
2 affirmative marketing, and long-term deed restrictions of residential  
3 units constructed for occupancy by low- and moderate-income  
4 households <sup>2</sup>], except not including the bedroom distribution  
5 requirements for three-bedroom housing units.]<sup>2</sup>.

6 b. The chief executive officer of the authority shall designate  
7 one staff member per government-restricted municipality in order to  
8 keep the municipality informed on activities within the municipality  
9 and to coordinate economic development initiatives.

10 (cf: P.L.2023, c.98, s.2)

11

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

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

18 (1) without the incentive award, the redevelopment project is  
19 not economically feasible;

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

23 (3) the redevelopment project, except a film studio, professional  
24 stage, television studio, recording studio, screening room, or other  
25 infrastructure used for film production, <sup>2</sup>or a special mission non-  
26 profit project,<sup>2</sup> is located in the incentive area;

27 (4) <sup>2</sup>[(a)]<sup>2</sup> except for demolition and site remediation activities,  
28 the developer has not commenced any construction at the site of the  
29 redevelopment project prior to submitting an application, unless the  
30 authority determines that the redevelopment project would not be  
31 completed otherwise or, in the event the redevelopment project is to  
32 be undertaken in phases, the requested incentive award is limited to  
33 only phases for which construction has not yet commenced;

34 <sup>2</sup>[(b) if the developer has commenced demolition and site  
35 remediation activities at the site of the redevelopment project prior  
36 to submitting an application <sup>1</sup>that includes those demolition and site  
37 remediation costs as part of the eligible project cost<sup>1</sup> , all  
38 construction workers employed to undertake demolition and site  
39 remediation activities at the site were paid not less than the  
40 prevailing wage rate for the worker's craft or trade, as determined  
41 by the Commissioner of Labor and Workforce Development  
42 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,  
43 c.379 (C.34:11-56.58 et seq.);]<sup>2</sup>

44 (5) the redevelopment project shall comply with minimum  
45 environmental and sustainability standards;

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

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

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

1 Commissioner of Labor and Workforce Development, subsequently  
2 reviewed and approved by the Commissioner of Labor and  
3 Workforce Development, and verified by the authority, which  
4 reviews and verifications shall be completed. In this event, the  
5 developer and any co-applicant shall be allowed the full tax credit  
6 amount beginning in the tax period in which documentation of  
7 compliance was reviewed and approved by the Commissioner of  
8 Labor and Workforce Development and verified by the authority,  
9 including each subsequent tax period in which the tax credits are  
10 otherwise authorized <sup>2</sup>. The requirement of this subparagraph shall  
11 not apply to the residential tenants or residential subtenants of a  
12 redevelopment project<sup>2</sup>;

13 (c) in the event a redevelopment project, or any portion thereof,  
14 is undertaken by a tenant pursuant to a contract and the tenant has a  
15 leasehold of more than 55 percent of space in the building owned or  
16 controlled by the developer, the requirement that each worker  
17 employed to perform building service work at the building be paid  
18 not less than the prevailing wage shall apply to the entire building,  
19 except as otherwise provided in subparagraph (b) of this paragraph  
20 for <sup>2</sup>all residential tenants and all<sup>2</sup> commercial tenants,  
21 commercial subtenants, or other commercial occupants with a  
22 leasehold interest or other occupancy right encompassing less than  
23 5,000 square feet <sup>2</sup>. The requirement of this subparagraph shall not  
24 apply to the residential tenants or residential subtenants of a  
25 redevelopment project<sup>2</sup>;

26 (8) (a) the redevelopment project shall be completed, and the  
27 developer shall be issued a certificate of occupancy for the  
28 redevelopment project facilities by the applicable enforcing agency,  
29 within four years of executing the incentive award agreement, or in  
30 the case of a redevelopment project with a <sup>2</sup>total<sup>1</sup><sup>2</sup> project cost  
31 in excess of \$50,000,000, the incentive phase agreement  
32 corresponding to the redevelopment project; or

33 (b) in the discretion of the authority, a redevelopment project  
34 with a <sup>2</sup>total<sup>1</sup><sup>2</sup> project cost in excess of \$50,000,000, and that is  
35 authorized to be completed in phases, may be allowed no more than  
36 six years from the date on which the incentive award agreement is  
37 executed to be issued a certificate of occupancy by the applicable  
38 enforcement agency;

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

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

46 b. In addition to the requirements set forth in subsection a. of  
47 this section, for a commercial project to qualify for an incentive

1 award the developer shall demonstrate that the developer shall  
2 contribute capital of at least 20 percent of the <sup>1</sup>~~total~~<sup>2</sup>total<sup>2</sup>  
3 project cost, except that if a redevelopment project is located in a  
4 government-restricted municipality, the developer shall contribute  
5 capital of at least 10 percent of the <sup>1</sup>~~total~~<sup>2</sup>total<sup>2</sup> project cost.

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

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

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

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

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

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



1 Treasury. The authority may also contract with an independent  
 2 third party to perform a background check on the developer.  
 3 f. Beginning <sup>1</sup>[on] <sup>2</sup>[after<sup>1</sup>] on<sup>2</sup> the <sup>2</sup>[third] fourth<sup>2</sup> year  
 4 <sup>2</sup>[following the date of issuance of a final certificate of occupancy]  
 5 of the eligibility period<sup>2</sup> for a commercial project, and through the  
 6 conclusion of the eligibility period, if the average occupancy rate of  
 7 the commercial project is less than 60 percent during any applicable  
 8 tax period, the developer and co-applicant shall forfeit all credits  
 9 otherwise allowed for the tax period and for each subsequent tax  
 10 period until the authority verifies documentation, submitted by the  
 11 developer or co-applicant, demonstrating that the average  
 12 occupancy rate has reached or surpassed 60 percent for the tax  
 13 period. The full amount of credit shall be allowed to a developer  
 14 and any co-applicant for the tax period in which the average  
 15 occupancy rate reaches or surpasses 60 percent. Occupancy for the  
 16 tax period shall be determined by the average of the monthly  
 17 occupancy for the applicable tax period. The occupancy  
 18 requirement in this subsection shall not apply to residential projects.  
 19 (cf: P.L.2023, c.98, s.3)

20  
 21 4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to  
 22 read as follows:

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

29 (2) For a phased project, the incentive phase agreement shall set  
 30 forth, for each phase of the project and for the total project, the  
 31 capital investment requirements and the time periods in which each  
 32 phase of the project shall be commenced and completed. The  
 33 awarding of tax credits shall be conditioned on the developer's  
 34 compliance with the requirements of the agreement. A  
 35 redevelopment project may be completed in phases in accordance  
 36 with rules adopted by the authority if the redevelopment project has  
 37 <sup>2</sup>[a total] an eligible<sup>2</sup> project cost in excess of \$50,000,000.

38 b. An incentive award agreement shall specify the amount of  
 39 the incentive award the authority shall award to the developer and  
 40 the duration of the eligibility period. The duration of the eligibility  
 41 period [shall not exceed 15 years for a commercial or mixed-use  
 42 project and] shall not exceed 10 years for a commercial project,  
 43 mixed-use project, or residential project, except that [to] <sup>2</sup>[the  
 44 authority shall]<sup>2</sup> <sup>1</sup>[consider reducing] <sup>2</sup>[reduce<sup>1</sup> the eligibility  
 45 period if a shorter period would] to<sup>2</sup> reduce the total value of tax  
 46 credits needed to reimburse a developer for all or part of the project  
 47 financing gap of a redevelopment project, [the authority may, in its

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

34 c. To ensure the protection of taxpayer money, <sup>2</sup>if the  
35 authority determines at project certification that the actual capital  
36 financing approach utilized by the project has resulted in a  
37 financing gap that is smaller than the financing gap determined at  
38 board approval, the authority shall reduce the amount of the tax  
39 credit or accept payment from the developer on a pro rata basis. If  
40 there is no project financing gap due to the actual capital financing  
41 approach utilized by the project, then the developer shall forfeit the  
42 incentive award. At at project certification and at<sup>2</sup> the end of the  
43 seventh year of the eligibility period, the authority shall evaluate the  
44 developer's rate of return on investment and compare that rate of  
45 return on investment to the reasonable and appropriate rate of return  
46 at the time of board approval. If the actual rate of return on  
47 investment exceeds the reasonable and appropriate rate of return on

1 investment at the time of board approval by more than 15 percent,  
2 the authority shall require the developer to pay up to 20 percent of  
3 the amount in excess of the reasonable and appropriate rate of  
4 return on investment. <sup>2</sup>For any year during the eligibility period in  
5 which the director purchases a tax credit certificate or tax credit  
6 transfer certificate issued for a redevelopment project pursuant to  
7 section 89 of P.L.2020, c.156 (C.52:18A-263), if the actual rate of  
8 return on investment exceeds the reasonable and appropriate rate of  
9 return on investment at the time of board approval by more than 10  
10 percent, the authority shall require the developer to pay up to 20  
11 percent of the amount in excess of the reasonable and appropriate  
12 rate of return on investment, except as otherwise provided in  
13 paragraph (2) of subsection a. of section 89 of P.L.2020, c.156  
14 (C.52:18A-263).<sup>2</sup> The authority shall require an escrow account to  
15 be held by the authority <sup>2</sup>for any payment received pursuant to this  
16 subsection<sup>2</sup> until the end of the eligibility period. <sup>2</sup>For any payment  
17 amount calculated at project certification, the developer shall make  
18 equal annual payments, which in aggregate shall equal the  
19 calculated payment amount, with each annual report for the first  
20 seven years of the eligibility period. At the end of the seventh year  
21 of the eligibility period, the developer shall pay the authority any  
22 additional amount required. For projects that have an eligibility  
23 period of fewer than 10 years, the authority may adjust the year of  
24 the eligibility period in which the evaluation of the rate of return  
25 and contribution to the escrow account, as may be appropriate, are  
26 required. The authority shall not reduce or recapture any tax credits  
27 at project certification or at the end of the seventh year of the  
28 eligibility period solely due to an increase to the return on  
29 investment.<sup>2</sup> Following the final year of the eligibility period, the  
30 authority shall determine if the developer's rate of return exceeded  
31 the reasonable and appropriate rate of return determined at board  
32 approval. If the final rate of return does not exceed the reasonable  
33 and appropriate rate of return determined at board approval, the  
34 authority shall release to the developer the escrowed funds. If the  
35 project final rate of return exceeds the reasonable and appropriate  
36 rate of return determined at board approval, the authority shall  
37 require the developer to pay up to 20 percent of the amount of the  
38 excess, which shall include the funds held in escrow, and such  
39 funds shall be deposited in the State General Fund.

40 d. The incentive award agreement shall include a requirement  
41 that the authority confirm with the Department of Environmental  
42 Protection, the Department of Labor and Workforce Development,  
43 and the Department of the Treasury that the developer is in  
44 substantial good standing with the respective department, or the  
45 developer has entered into an agreement with the respective  
46 department that includes a practical corrective action for the  
47 developer, and the developer shall confirm that each contractor or

1 subcontractor performing work at the redevelopment project: (1) is  
2 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  
4 not been debarred, suspended, or disqualified by the Department of  
5 Labor and Workforce Development from engaging in or bidding on  
6 Public Works Contracts in the State, or been debarred, suspended,  
7 or disqualified by a federal agency from engaging in federally-  
8 funded construction projects or bidding on federal contracting  
9 opportunities; and (3) possesses a tax clearance certificate issued by  
10 the Division of Taxation in the Department of the Treasury. The  
11 incentive award agreement shall also include a provision that the  
12 developer shall forfeit the incentive award in any year in which the  
13 developer is neither in substantial good standing with each  
14 department nor has entered into a practical corrective action. The  
15 incentive award agreement shall also require a developer to engage  
16 in on-site consultations with the Division of Workplace Safety and  
17 Health in the Department of Health.

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

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

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

43 f. (1) Except for <sup>2</sup>a special mission non-profit project in any  
44 location, or<sup>2</sup> a residential project that is located in a government-  
45 restricted municipality <sup>2</sup>[.]<sup>2</sup> and in which 100 percent of the  
46 residential units constructed in the residential project are reserved  
47 for occupancy by low- and moderate-income households, for a  
48 redevelopment project whose <sup>1</sup>[total]<sup>1</sup> <sup>2</sup>total<sup>2</sup> project cost equals or

1 exceeds \$10 million, in addition to the incentive award agreement, a  
 2 developer shall enter into a community benefits agreement with the  
 3 authority and the county or municipality in which the  
 4 redevelopment project is located. The agreement may include, but  
 5 shall not be limited to, requirements for training, employment, and  
 6 youth development and free services to underserved communities in  
 7 and around the community in which the redevelopment project is  
 8 located. Prior to entering a community benefits agreement, <sup>2</sup>the  
 9 governing body of <sup>2</sup>the county or municipality in which the  
 10 redevelopment project is located shall hold at least one <sup>2</sup>previously  
 11 advertised<sup>2</sup> public hearing at which <sup>2</sup>the governing body shall  
 12 hear<sup>2</sup> testimony from residents, community groups, and other  
 13 stakeholders <sup>2</sup>shall have an opportunity to be heard<sup>2</sup> on the needs of  
 14 the community that the agreement should address<sup>2</sup>, and the minutes  
 15 of the meeting shall be included in the resolution of the governing  
 16 body of the municipality or county adopting the community benefits  
 17 agreement<sup>2</sup>.

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

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

37 (4) Notwithstanding any requirement of this subsection to the  
 38 contrary, <sup>2</sup>because all redevelopment agreements require a  
 39 certificate of completion issued by the municipality to confirm the  
 40 developer's compliance with the redevelopment agreement,<sup>1</sup><sup>2</sup> a  
 41 developer shall be considered to have met the requirements of a  
 42 community benefits agreement [pursuant to this subsection] <sup>2</sup>and  
 43 the requirements of paragraphs (2) and (3) of this subsection shall  
 44 not apply, <sup>2</sup>pursuant to this subsection if the developer submits to  
 45 the authority:

46 (a) a copy of either the developer's approval letter from the  
 47 authority or a redevelopment agreement applicable to the qualified

1 business facility, provided that the approval letter <sup>2</sup>[is certified by  
2 the municipality]<sup>2</sup> or <sup>2</sup>[the]<sup>2</sup> redevelopment agreement is  
3 [certified] <sup>2</sup>[adopted by resolution at a public meeting] certified<sup>2</sup>  
4 by the municipality in which the redevelopment project is located,  
5 and includes provisions that meet [or exceed] <sup>2</sup>or exceed<sup>2</sup> the  
6 [standards] <sup>2</sup>[community benefit] standards<sup>2</sup> required [for]  
7 <sup>2</sup>[under] for<sup>2</sup> a community benefits agreement <sup>1</sup>[in] <sup>2</sup>[pursuant  
8 to<sup>1</sup>] in<sup>2</sup> this subsection [, as determined by the chief executive  
9 officer pursuant to rules adopted by the authority] <sup>2</sup>, as determined  
10 by the chief executive officer pursuant to rules adopted by the  
11 authority<sup>2</sup>; or

12 (b) a resolution adopted by the governing body of the  
13 municipality in which the redevelopment project is located, which  
14 resolution shall be adopted after at least one public hearing at which  
15 the governing body provides an opportunity for residents,  
16 community groups, and other stakeholders to testify, and which  
17 resolution shall state that the governing body has determined that  
18 the redevelopment project will provide economic and social benefits  
19 to the community that fulfill the purposes of this subsection, which  
20 benefits render a separate community benefit agreement  
21 unnecessary, and explain the reasons supporting the governing  
22 body's determination.

23 <sup>2</sup>(c) The developer and the municipality or county shall submit  
24 the executed community benefits agreement, redevelopment  
25 agreement, or approved resolution to the authority within the same  
26 time as all other conditions subsequent required in the approval  
27 letter.<sup>2</sup>

28 g. A developer shall submit, prior to the first disbursement of  
29 tax credits under the incentive award agreement, but no later than  
30 six months following project completion, satisfactory evidence of  
31 actual project costs, as certified by a certified public accountant,  
32 evidence of a temporary certificate of occupancy, or other event  
33 evidencing project completion that begins the eligibility period  
34 indicated in the incentive award agreement. The developer, or an  
35 authorized agent of the developer, shall certify that the information  
36 provided pursuant to this subsection is true under the penalty of  
37 perjury. Claims, records, or statements submitted by a developer to  
38 the authority in order to receive tax credits shall not be considered  
39 claims, records, or statements made in connection with State tax  
40 laws.

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

44 i. The incentive award agreement shall include one or more  
45 provisions, as determined by the authority, concerning the terms  
46 and conditions for default and the remedies for the developer of a  
47 redevelopment project in the event of default. The incentive award

1 agreement shall not allow the authority to declare a cross-default  
 2 when the developer of a redevelopment project, including any  
 3 business affiliate of the developer or any other entity with common  
 4 principals as the developer, is in default with any other assistance  
 5 program administered by the authority.

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

7  
 8 5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to  
 9 read as follows:

10 61. a. Up to the limits established in subsection b. of this  
 11 section and in accordance with an incentive award agreement,  
 12 beginning upon the receipt of occupancy permits for any portion of  
 13 the redevelopment project, or upon any other event evidencing  
 14 project completion as set forth in the incentive award agreement, a  
 15 developer shall be allowed a total tax credit **that shall not exceed**  
 16 **as follows, subject to the enhancements set forth in subsection c.**  
 17 **of this section** that shall not exceed<sup>2</sup>:

18 (1) **80** (a) 85<sup>2</sup> percent of the <sup>1</sup>**total** eligible<sup>1</sup> project cost for  
 19 a redevelopment project that <sup>2</sup>is located in a government-  
 20 restricted municipality <sup>2</sup>, which municipality qualified as a  
 21 government-restricted municipality prior to the effective date of  
 22 P.L. , c. (C. ) (pending before the Legislature as this bill);<sup>2</sup>  
 23 or is a special mission non-profit project<sup>1</sup>; <sup>2</sup>or

24 (b) 80 percent of the eligible project cost for a redevelopment  
 25 project that is located in a government-restricted municipality,  
 26 which municipality did not qualify as a government-restricted  
 27 municipality prior to the effective date of P.L. , c. (C. )  
 28 (pending before the Legislature as this bill);<sup>2</sup>

29 (2) 60 percent of the <sup>1</sup>**total** eligible<sup>1</sup> project cost for a  
 30 residential project that receives a four-percent allocation from the  
 31 federal Low Income Housing Tax Credit Program administered by  
 32 the agency , or a redevelopment project that is located in a qualified  
 33 incentive tract, enhanced area, or a municipality with a Municipal  
 34 Revitalization Index score of at least 50; or

35 (3) 50 percent of the <sup>1</sup>**total** eligible<sup>1</sup> project cost for any other  
 36 redevelopment project.

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

39 (1) \$120,000,000 per redevelopment project or phase for a  
 40 redevelopment project that is located in a government-restricted  
 41 municipality <sup>1</sup>or is a special mission non-profit project<sup>1</sup>;

42 (2) \$90,000,000 per redevelopment project or phase for a  
 43 redevelopment project that is allowed a tax credit under paragraph  
 44 (2) of subsection a. of this section; and

45 (3) \$60,000,000 for any other redevelopment project or phase.

46 <sup>2</sup>**c. Notwithstanding the limitations set forth in subsection a. of**  
 47 **this section, but subject to the limitations of subsections b. and d. of**

1 this section and the demonstration of a financing gap, a developer  
2 shall be eligible for each of the following enhancements to the total  
3 tax credit award:

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

7 (2) for a residential project that meets the three-bedroom  
8 distribution requirement under the Uniform Housing Affordability  
9 Controls, an enhancement of up to five percent of the project cost of  
10 the residential project; and

11 (3) for a redevelopment project that meets local first source  
12 hiring requirements for residents in the municipality or county in  
13 which the project is located and in surrounding municipalities, as  
14 appropriate, an enhancement of up to three percent of the project  
15 cost of the redevelopment project.

16 d. Except for a redevelopment project that is located in a  
17 government restricted municipality:

18 (1) the total tax credits awarded for the redevelopment project,  
19 together with all tax credits awarded under any other program  
20 administered by the authority, shall not exceed 80 percent of the  
21 project cost of the redevelopment project; and

22 (2) for a redevelopment project that receives tax credits under  
23 the Federal Low-Income Housing Tax Credit Program, the total tax  
24 credits awarded for the redevelopment project, together with all tax  
25 credits awarded under any other program administered by the  
26 authority and under the Federal Low-Income Housing Tax Credit  
27 Program, shall not exceed 90 percent of the project cost.】<sup>2</sup>

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

29

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

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

46 b. (1) Upon receipt and review of each report submitted during  
47 the eligibility period, the authority shall provide to the developer  
48 and the director a certificate of compliance indicating the amount of



1 tax credits that the developer may apply against the developer's tax  
2 liability. <sup>2</sup>1The authority shall preliminarily determine whether  
3 the annual report submitted by the developer is complete as early as  
4 practicable after accepting each annual report. Within 90<sup>1</sup>  
5 Notwithstanding any provision of law or regulation to the contrary,  
6 the authority shall not require the developer to include a permanent  
7 certificate of occupancy in the first annual report, but the developer  
8 shall include the permanent certificate of occupancy in the next  
9 annual report after the developer receives the permanent certificate  
10 of occupancy. Subject to forfeiture, reduction, or other action for  
11 failure to comply with a program requirement, within 120<sup>2</sup> days  
12 after the authority preliminarily determines that an annual report is  
13 complete, the authority shall either: (a) approve the annual report  
14 and notify the director that the authority has approved the report  
15 and that the director is to issue the tax credit certificate; or (b)  
16 request more information from the developer to finalize the  
17 approval. If the authority fails to act within <sup>2</sup>90 120<sup>2</sup> days from  
18 its preliminary determination that the annual report is complete, the  
19 annual report shall be deemed approved by the authority, and the  
20 developer shall be entitled to receive its tax credit certificate.<sup>1</sup>

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

1 distribution method provided to the director accompanied by any  
2 additional information as the director may prescribe.

3 (3) The director shall prescribe the order of priority of the  
4 application of the credit allowed under this section and any other  
5 credits allowed by law against the tax imposed under section 5 of  
6 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
7 under this section against the tax imposed pursuant to section 5 of  
8 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
9 any other credits allowed by law, shall not reduce the tax liability to  
10 an amount less than the statutory minimum provided in subsection  
11 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).  
12 (cf: P.L.2022, c.46, s.1)

13

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

16 63. a. <sup>1</sup>(1)<sup>1</sup>A developer may apply to the director and the chief  
17 executive officer of the authority for a tax credit transfer certificate,  
18 covering one or more years, in lieu of the developer being allowed  
19 any amount of the credit against the tax liability of the developer.  
20 <sup>2</sup>1The authority shall preliminarily determine whether the  
21 application submitted by the developer is complete as early as  
22 practicable after accepting the application. Within 90<sup>1</sup> Subject to  
23 the forfeiture, reduction, or other action for failure to comply with a  
24 program requirement, within 120<sup>2</sup> days after the authority  
25 preliminarily determines that an application is complete, the  
26 authority shall either: (a) approve the application and notify the  
27 director that the authority has approved the application and that the  
28 director is to issue the tax credit transfer certificate; or (b) request  
29 more information from the developer to finalize the approval. If the  
30 authority fails to act within <sup>2</sup>90 120<sup>2</sup> days from its preliminary  
31 determination that the application is complete, the application shall  
32 be deemed approved by the authority, and the developer shall be  
33 entitled to receive its tax credit transfer certificate.

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

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

1 tax period shall not exceed the total tax credit amount divided by  
2 the duration of the eligibility period in years.

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

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

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

13 <sup>1</sup>e. When a tax credit certificate is issued to a developer after  
14 the tax period in which all or part of the tax credits may be used by  
15 the developer or a holder of the credit transfer certificate, the  
16 developer or transferee shall be allowed to use the tax credit for the  
17 same tax period specified in the tax credit certificate, or within the  
18 three successive tax periods immediately following the tax period in  
19 which the certificate is received by the developer or transferee. In  
20 this circumstance, the developer or transferee shall not be required  
21 to amend its tax return for the tax period in which it applies the tax  
22 credit or for a tax period preceding the tax period in which the tax  
23 credit is applied.]<sup>1</sup>

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

25

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

28 65. a. As used in this section, "transformative project" means a  
29 redevelopment project: that has a project financing gap; that has a  
30 total project cost of at least \$150,000,000; that <sup>1</sup>l. subject to the  
31 provisions of subsection h. of this section,]<sup>1</sup> includes 200,000 or  
32 more square feet of new or substantially renovated industrial,  
33 commercial, or residential space for a project located in a  
34 government-restricted municipality, that includes 250,000 or more  
35 square feet of film studios, professional stages, television studios,  
36 recording studios, screening rooms, or other infrastructure for film  
37 production, that includes 300,000 or more square feet of new or  
38 substantially renovated industrial, commercial, or residential space  
39 for a project located in an enhanced area, or that includes 500,000  
40 or more square feet of new or substantially renovated industrial,  
41 commercial, or residential space for any other project; and, for a  
42 commercial project, that is of special economic importance as  
43 measured by the level of new jobs, new capital investment,  
44 opportunities to leverage leadership in a high-priority targeted  
45 industry, or other state priorities as determined by the authority  
46 pursuant to rules and regulations promulgated to implement this  
47 section. Notwithstanding the provisions of subsection b. of section  
48 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for

1 applications submitted on and after the effective date of P.L.2023,  
 2 c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located  
 3 entirely on land designated by the Department of Environmental  
 4 Protection as a brownfield development area pursuant to section 7  
 5 of P.L.2005, c.223 (C.58:10B-25.1), and the <sup>2</sup>~~["total"]~~ eligible<sup>2</sup>  
 6 project cost of the redevelopment project includes at least  
 7 \$15,000,000 in environmental remediation costs, the redevelopment  
 8 project shall constitute a project of special economic importance. A  
 9 transformative project may be completed in phases, which phases  
 10 may be determined by the authority based on factors such as written  
 11 architectural plans and specifications completed before or during  
 12 the physical work, certificates of occupancy, or financial and  
 13 operational plans. The criteria developed by the authority shall  
 14 include, but shall not be limited to:

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

18 (2) (a) for a residential project, the construction of 700 or more  
 19 new residential units; <sup>2</sup>~~["or"]~~<sup>2</sup>

20 (b) for a <sup>2</sup>~~mixed-use~~<sup>2</sup> residential project containing ~~["less"]~~ fewer  
 21 than 700 new residential units <sup>2</sup>~~[","]~~ :

22 (i)<sup>2</sup> the construction of 200 or more new residential units if the  
 23 project is located in a government-restricted municipality, 300 or  
 24 more <sup>1</sup>~~new~~<sup>1</sup> residential units if the project is located in an enhanced  
 25 area, or 400 or more <sup>1</sup>~~new~~<sup>1</sup> residential units for all other mixed-use  
 26 projects; <sup>2</sup>~~["or"]~~ and

27 (ii) the construction of 30,000 square feet or more of  
 28 commercial space, which commercial space may include retail  
 29 space; and<sup>2</sup>

30 (c) <sup>2</sup>~~["for a residential project "~~ <sup>1</sup>~~["containing"]~~ , not located in a  
 31 government-restricted municipality or an enhanced area, that  
 32 contains<sup>1</sup> ~~["less"]~~ fewer than 700 new residential units, the  
 33 construction of ~~["50,000"]~~ 20,000 square feet or more of commercial  
 34 space, which commercial space may include retail space; and  
 35 (Deleted by amendment, P.L. , c. (pending before the  
 36 Legislature as this bill)<sup>2</sup>

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

1 shall be exempt from the affordability controls related to bedroom  
2 distribution; and

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

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

11 b. (1) The authority may award incentive awards to  
12 transformative projects in accordance with the provisions of  
13 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through  
14 34:1B-335).

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

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

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

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

1 shall apply to <sup>1</sup>~~the entire~~ <sup>2</sup>each phase of a <sup>1</sup>~~the entire~~<sup>2</sup>  
2 transformative project until the end of the eligibility period <sup>1</sup>~~for~~  
3 ~~the last~~ <sup>2</sup>of each completed <sup>1</sup>~~for the last~~<sup>2</sup> phase.

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

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

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

1 necessary. The authority shall evaluate the net economic benefits  
2 on a present value basis under which the requested tax credit  
3 allocation amount is discounted to present value at the same  
4 discount rate as the projected benefits from the implementation of  
5 the proposed transformative project for which an award of tax  
6 credits is being sought. Projects that are predominantly residential  
7 or that qualify as special mission non-profit projects<sup>2</sup> shall be  
8 excluded from the calculation of the net benefit test required  
9 pursuant to this subsection.

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

18 e. The authority shall administer the credits awarded pursuant  
19 to this section in accordance with the provisions of sections 62 and  
20 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

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

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

43 (1) (a) <sup>2</sup>~~80~~ <sup>2</sup>(i) 85<sup>2</sup> percent of the <sup>1</sup>~~total~~ eligible<sup>1</sup> project cost  
44 for a transformative project that is located in a government-  
45 restricted municipality <sup>2</sup>, which municipality qualified as a  
46 government-restricted municipality prior to the effective date of



1 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>2</sup> ;  
2 <sup>2</sup>or  
3 (ii) 80 percent of the eligible project cost for a transformative  
4 project that is located in a government-restricted municipality,  
5 which municipality did not qualify as a government-restricted  
6 municipality prior to the effective date of P.L. , c. (C. )  
7 (pending before the Legislature as this bill);<sup>2</sup>  
8 (b) 60 percent of the <sup>1</sup>**total** eligible<sup>1</sup> project cost for a  
9 residential transformative project that receives a four-percent  
10 allocation from the federal Low Income Housing Tax Credit  
11 Program administered by the agency or a transformative project that  
12 is located in a qualified incentive tract, enhanced area, or a  
13 municipality with a Municipal Revitalization Index score of at least  
14 50; or  
15 (c) 50 percent of the <sup>1</sup>**total** eligible<sup>1</sup> project cost for any other  
16 transformative project;  
17 (2) the total value of the project financing gap; or  
18 (3) \$400,000,000 except that for a transformative project that is  
19 developed in phases, the \$400,000,000 limitation on incentive  
20 awards set forth in this paragraph shall apply to the total aggregate  
21 award for all phases of the transformative project.  
22 <sup>2</sup>h. Notwithstanding the limitations set forth in subsection g. of  
23 this section, a developer of a transformative project shall be eligible  
24 for each of the following enhancements to the total tax credit award  
25 <sup>1</sup>, individually or in combination, subject to the demonstration of a  
26 financing gap and need for support<sup>1</sup> :  
27 (1) for a transformative project that includes the redevelopment  
28 of a stranded asset, an enhancement of up to 10 percent of the  
29 project cost of the transformative project;  
30 (2) for a residential transformative project that meets the three-  
31 bedroom distribution requirement under the Uniform Housing  
32 Affordability Controls, an enhancement of up to five percent of the  
33 project cost of the residential transformative project; and  
34 (3) for a transformative project that meets local first source  
35 hiring requirements for residents in the municipality or county in  
36 which the project is located and in surrounding municipalities, as  
37 appropriate, an enhancement of up to three percent of the project  
38 cost of the transformative project.]<sup>2</sup>  
39 <sup>1</sup>i. (1) The parking component of a transformative project shall  
40 be included in the calculation of the total square footage of the  
41 project, provided that the parking component shall be constructed in  
42 conformity with local zoning, planning, or similar requirements, or  
43 up to the amount required by the Residential Site Improvement  
44 Standards, regardless of whether the Residential Site Improvement  
45 Standards apply to the parking component. Any portion of the  
46 parking component that exceeds the local parking requirements or

1 the Residential Site Improvement Standards shall not be included in  
 2 the calculation of the total square footage of the project.

3 (2) Notwithstanding any provision of paragraph (1) of this  
 4 subsection to the contrary, the entire parking component of a  
 5 project located in a government restricted municipality shall be  
 6 included in the calculation of the total square footage of the  
 7 project.】<sup>1</sup>

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

9  
 10 <sup>2</sup>【9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to  
 11 read as follows:

12 14. a. (1) Except as otherwise provided in subsection b. of this  
 13 section, all program applications **【completed after】** submitted to <sup>1</sup>or  
 14 approved by<sup>1</sup> the authority <sup>1</sup>【on or】<sup>1</sup> after <sup>1</sup>【the date six months prior  
 15 to the effective date of **【P.L.2023, c.98 (C.34:1B-335.1 et al.)】** P.L. ,  
 16 c. (C. ) (pending before the Legislature as this bill)】 January 1,  
 17 2023<sup>1</sup> shall be subject to the "New Jersey Aspire Program Act,"  
 18 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through  
 19 34:1B-335), as amended as supplemented by P.L.2023, c.98 (C.34:1B-  
 20 335.1 et al.), and as further amended and supplemented by P.L. , c.  
 21 (C. ) (pending before the Legislature as this bill), including the  
 22 rules and regulations adopted pursuant to subsection b. of section 67 of  
 23 P.L.2020, c.156 (C.34:1B-335), except that applications submitted to  
 24 the authority prior to the effective date of P.L. , c. (C. )  
 25 (pending before the Legislature as this bill) shall be subject to the rules  
 26 and regulations concerning application fees that were in effect  
 27 immediately before the effective date of P.L. , c. (C. )  
 28 (pending before the Legislature as this bill).

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

39 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-  
 40 269 et al.) to the contrary, if a completed application for a residential  
 41 project is submitted to the authority on or before the 121st calendar  
 42 day next following effective date of P.L.2023, c.98 (C.34:1B-335.1 et  
 43 al.), the applicant for the residential project has received all applicable  
 44 approvals pursuant to the "Municipal Land Use Law," P.L.1975, c.291  
 45 (C.40:55D-1 et seq.) on or before the 121st calendar day next  
 46 following the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),  
 47 and the applicant submits written notice to the authority, before the

1 authority's approval or denial of the application, electing for the  
2 application to be governed under the provisions of this subsection,  
3 then the residential units constructed for occupancy by low- and  
4 moderate-income households within the residential project shall not be  
5 subject to the affordability controls adopted by the authority, in  
6 consultation with the agency, pursuant to paragraph (2) of subsection  
7 a. of section 56 of P.L.2020, c.156 (C.34:1B-324) and subsection b. of  
8 section 67 of P.L.2020, c.156 (C.34:1B-335). In this event, the  
9 application for the residential project shall be reviewed, approved, and  
10 administered in accordance with the provisions of the "New Jersey  
11 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156  
12 (C.34:1B-322 through 34:1B-335), as such provisions remained in  
13 effect immediately before the effective date of P.L.2023, c.98  
14 (C.34:1B-335.1 et al.), including the rules and regulations adopted  
15 pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-  
16 335), except that the application shall be subject to:

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

20 (2) the limitation on tax credit awards set forth in subsection b. of  
21 section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of  
22 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as amended  
23 by P.L.2023, c.98 (C.34:1B-335.1 et al.) <sup>1</sup>; and

24 (3) no proration of the tax credit for any year within the eligibility  
25 period<sup>1</sup>.

26 (cf: P.L.2023, c.98, s.14)<sup>2</sup>

27

28 <sup>2</sup>**[10.** (New section) The authority shall promulgate a schedule  
29 of application and other fees imposed under the program, which  
30 fees shall be limited to the coverage of actual direct costs of  
31 administering the program, the coverage of reasonable indirect costs  
32 of administering the program, and the maintenance of reasonable  
33 reserves for administering the program. Any application fee or  
34 other fee charged by the authority shall be proportional to the tax  
35 credit amount awarded for a redevelopment project under the  
36 program.]<sup>2</sup>

37

38 <sup>2</sup>**[11.** (New section) a. The authority shall establish, as part of the  
39 program, a "Redevelopment Project Bridge Financing Program" to  
40 facilitate the ability of a developer to secure financing for a  
41 redevelopment project until such time as tax credits are issued  
42 pursuant to the "New Jersey Aspire Program Act," sections 54 through  
43 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as  
44 amended as supplemented. Through the program, the authority shall  
45 provide full or partial loans or loan guarantees, at the authority's  
46 discretion, to the developers of redevelopment projects for the purpose  
47 of ensuring the completion of the redevelopment projects. As

1 determined by the authority, the Redevelopment Project Bridge  
2 Financing Program may consist of:

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

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

7 b. (1) The authority may issue a redevelopment project bridge  
8 financing loan to the developer of an approved redevelopment project,  
9 upon application by the developer, provided that the authority  
10 determines that:

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

13 (b) the redevelopment project bridge financing loan will enable the  
14 completion of the redevelopment project.

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

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

19 (b) a proposed repayment schedule;

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

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

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

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

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

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

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

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

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

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

44 (3) The authority may issue the loan guarantees in such amounts as  
45 it deems appropriate, subject to such terms as the authority deems  
46 reasonable and appropriate, except that each worker employed to  
47 perform construction work on the redevelopment project shall be paid  
48 not less than the prevailing wage rate for the worker's craft or trade, as

1 determined by the Commissioner of Labor and Workforce  
 2 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and  
 3 P.L.2005, c.379 (C.34:11-56.58 et seq.).

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

16 (2) Within 90 days after the effective date of P.L. , c. (C. )  
 17 (pending before the Legislature as this bill), the authority shall submit  
 18 a recommendation to the Governor and to the Legislature, pursuant to  
 19 section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of  
 20 appropriations needed to fund the Redevelopment Project Bridge  
 21 Financing Program.]<sup>2</sup>

22  
 23 <sup>2</sup>[12. (New section) a. To facilitate the efficient monetization of  
 24 tax credits awarded under the program, the Department of the Treasury  
 25 shall <sup>1</sup>[, at such times as the department deems necessary,]<sup>1</sup> redeem  
 26 the tax credits <sup>1</sup>[awarded to] surrendered for redemption by<sup>1</sup> a  
 27 developer for a redevelopment project at a discount from face value.  
 28 <sup>1</sup>[The tax credit redemptions shall be made at such discounts as the  
 29 State Treasurer deems appropriate, except that the discount shall not  
 30 exceed 10 percent of the face value of the tax credits.]<sup>1</sup>

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

44 c.<sup>1</sup> The tax credit redemptions shall be paid in the same manner as  
 45 refunds of tax payable under section 5 of P.L.1945, c.162 (C.54:10A-  
 46 5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),  
 47 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5,

1 notwithstanding that such tax is not applicable to the person or entity  
 2 seeking the redemption. <sup>1</sup>【The State Treasurer shall allow the  
 3 proceeds of the tax credit redemption to be issued over one or more tax  
 4 periods, but not to exceed the applicable eligibility period.】<sup>1</sup><sup>2</sup>

5  
 6 <sup>2</sup>【13.】 9.<sup>2</sup> Section 89 of P.L.2020, c.156 (C.52:18A-263) is  
 7 amended to read as follows:

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

15 (1) the "Emerge Program Act," sections 68 through 81 of  
 16 P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the  
 17 provisions of paragraph (4) of subsection d. of section 77 of  
 18 P.L.2020, c.156 (C.34:1B-345); <sup>2</sup>【or】<sup>2</sup>

19 (2) the "New Jersey Aspire Program Act," sections 54 through  
 20 67 <sup>2</sup>of P.L.2020, c.156<sup>2</sup> (<sup>1</sup>【C.34:1B-222】 C.34:1B-322<sup>1</sup> through  
 21 C.34:1B-335), as amended and supplemented, <sup>2</sup>for<sup>2</sup> which <sup>2</sup>【shall  
 22 be subject to the provisions of section 12 of P.L. , c. (C. )  
 23 (pending before the Legislature as this bill)】 the director shall pay  
 24 an amount equal to 85 percent of the credit amount, provided that  
 25 the issuance date of the tax credit certificate or tax credit transfer  
 26 certificate to the developer or the holder of such certificate occurred  
 27 at least one year prior to the date of application to the director, and  
 28 further provided that, if the application to the director is submitted  
 29 after the sixth year of the eligibility period, the amount in excess of  
 30 the reasonable and appropriate rate of return on investment that the  
 31 developer is required to pay pursuant to subsection c. of section 60  
 32 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or

33 (3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197  
 34 (C.34:1B-383 et al.), for which the director shall pay an amount  
 35 equal to 85 percent of the credit amount, provided that the issuance  
 36 date of the tax credit certificate or tax credit transfer certificate to  
 37 the developer or the holder of such certificate occurred at least one  
 38 year prior to the date of application to the director<sup>2</sup>.

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

42 (1) the "Historic Property Reinvestment Act," sections <sup>1</sup>【1】 2<sup>1</sup>  
 43 through 8 of P.L.2020, c.156 (<sup>1</sup>【C.34:1B-269】 C.34:1B-270<sup>1</sup>  
 44 through C.34:1B-276);

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

- 1 (3) the "New Jersey Innovation Evergreen Act," sections 20  
2 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);  
3 (4) the "Food Desert Relief Act," sections 35 through 42 of  
4 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);  
5 (5) the "New Jersey Community-Anchored Development Act,"  
6 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through  
7 C.34:1B-321);  
8 (6) the "New Jersey Aspire Program Act," sections 54 through  
9 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);  
10 (7) the " Emerge Program Act," sections 68 through 81 of  
11 P.L.2020, c.156 (C.34:1B-336 et al.);  
12 (8) the Grow New Jersey Assistance Program established  
13 pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);  
14 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);  
15 (10) the State Economic Redevelopment and Growth Grant  
16 program established pursuant to section 5 of P.L.2009, c.90  
17 (C.52:27D-489e);  
18 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); <sup>2</sup>**[and]**<sup>2</sup>  
19 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b) <sup>2</sup>; and  
20 (13) the "Cultural Arts Incentives Program Act," P.L.2023,  
21 c.197 (C.34:1B-383 et al.)<sup>2</sup>.  
22 (cf: P.L.2020, c.156, s.89)

23  
24 <sup>2</sup>**[14.** Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to  
25 read as follows:

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

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

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

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

40 (d) "Net worth" shall mean the aggregate of the values disclosed  
41 by the books of the corporation for (1) issued and outstanding capital  
42 stock, (2) paid-in or capital surplus, (3) earned surplus and undivided  
43 profits, and (4) surplus reserves which can reasonably be expected to  
44 accrue to holders or owners of equitable shares, not including  
45 reasonable valuation reserves, such as reserves for depreciation or  
46 obsolescence or depletion. Notwithstanding the foregoing, net worth  
47 shall not include any deduction for the amount of the excess  
48 depreciation described in paragraph (2) (F) of subsection (k) of this

1 section. The foregoing aggregate of values shall be reduced by 50% of  
2 the amount disclosed by the books of the corporation for investment in  
3 the capital stock of one or more subsidiaries, which investment is  
4 defined as ownership (1) of at least 80% of the total combined voting  
5 power of all classes of stock of the subsidiary entitled to vote and (2)  
6 of at least 80% of the total number of shares of all other classes of  
7 stock except nonvoting stock which is limited and preferred as to  
8 dividends. In the case of investment in an entity organized under the  
9 laws of a foreign country, the foregoing requisite degree of ownership  
10 shall effect a like reduction of such investment from the net worth of  
11 the taxpayer, if the foreign entity is considered a corporation for any  
12 purpose under the United States federal income tax laws, such as (but  
13 not by way of sole examples) for the purpose of supplying deemed  
14 paid foreign tax credits or for the purpose of status as a controlled  
15 foreign corporation. In calculating the net worth of a taxpayer entitled  
16 to reduction for investment in subsidiaries, the amount of liabilities of  
17 the taxpayer shall be reduced by such proportion of the liabilities as  
18 corresponds to the ratio which the excluded portion of the subsidiary  
19 values bears to the total assets of the taxpayer.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

44 (C) Taxes paid or accrued to the United States, a possession or  
45 territory of the United States, a state, a political subdivision thereof, or  
46 the District of Columbia, or to any foreign country, state, province,  
47 territory or subdivision thereof, on or measured by profits or income,  
48 or business presence or business activity, or the tax imposed by this

1 act, or any tax paid or accrued with respect to subsidiary dividends  
2 excluded from entire net income as provided in paragraph (5) of  
3 subsection (k) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (ii) For privilege periods beginning after December 31, 2017 and  
43 ending on and after July 31, 2022, the interest deduction limitation in  
44 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.  
45 s.163), shall apply to a combined group as though the combined group  
46 filed a federal consolidated return; provided, however, for the purposes  
47 of applying the limitation in subsection (j) of section 163 of the  
48 Internal Revenue Code (26 U.S.C. s.163), with regard to affiliates that

1 were members of the federal consolidated return but were not  
2 members of the combined group included on the New Jersey combined  
3 return, the combined group and the affiliates will also be treated as  
4 having filed one federal consolidated return.

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

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

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

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

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

26 (ii) Making or placing deposits with foreign persons which are  
27 banks or foreign branches of banks (including foreign subsidiaries) or  
28 foreign branches of the taxpayers or with other international banking  
29 facilities;

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

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

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

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

43 (ii) For privilege periods beginning after December 31, 2016 and  
44 before January 1, 2019, entire net income shall exclude 95% of  
45 dividends which were included in computing such taxable income for  
46 federal income tax purposes, paid or deemed paid, to the taxpayer by  
47 one or more subsidiaries owned by the taxpayer to the extent of the  
48 80% or more ownership of investment described in subsection (d) of

1 this section. For the purposes of calculating the tax liability owed for  
2 the paid or deemed paid dividends included in entire net income by  
3 this subparagraph (ii), the taxpayer shall use either their three-year  
4 average allocation factor for the taxpayer's 2014 through 2016 tax  
5 years reported on the taxpayer's tax returns or 3.5 percent, whichever  
6 is lower.

7 (iii) For privilege periods beginning on and after January 1, 2019  
8 and ending before July 31, 2023, entire net income shall exclude 95%  
9 of dividends which were included in computing such taxable income  
10 for federal income tax purposes, paid or deemed paid to the taxpayer  
11 by one or more subsidiaries owned by the taxpayer to the extent of the  
12 80% or more ownership of investment described in subsection (d) of  
13 this section.

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

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

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

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

45 (E) For privilege periods ending on and after July 31, 2020, for  
46 purposes of this paragraph (5), the members of a combined group  
47 filing a New Jersey combined return shall be treated as one taxpayer

1 with regard to dividends and deemed dividends that were received as  
2 part of the unitary business of the combined group.

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

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

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

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

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

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

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

45 (D) Change in ownership. Where there is a change in 50% or more  
46 of the ownership of a corporation because of redemption or sale of  
47 stock and the corporation changes the trade or business giving rise to  
48 the loss, no net operating loss sustained before the changes may be

1 carried over to be deducted from income earned after such changes. In  
2 addition where the facts support the premise that the corporation was  
3 acquired under any circumstances for the primary purpose of the use  
4 of its net operating loss carryover, the director may disallow the  
5 carryover.

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

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

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

31 (7) The entire net income of gas, electric and gas and electric  
32 public utilities that were subject to, or would have been subject to tax  
33 if doing business in this State, the provisions of P.L.1940, c.5  
34 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting  
35 the New Jersey depreciation allowance for federal tax depreciation  
36 with respect to assets placed in service prior to January 1, 1998. For  
37 gas, electric, and gas and electric public utilities that were subject to,  
38 or would have been subject to tax if doing business in this State, the  
39 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the  
40 New Jersey depreciation allowance shall be computed as follows: All  
41 depreciable assets placed in service prior to January 1, 1998 shall be  
42 considered a single asset account. The New Jersey tax basis of this  
43 depreciable asset account shall be an amount equal to the carryover  
44 adjusted basis for federal income tax purposes on December 31, 1997  
45 of all depreciable assets in service on December 31, 1997, increased  
46 by the excess, of the "net carrying value," defined to be adjusted book  
47 basis of all assets and liabilities, excluding deferred income taxes,  
48 recorded on the public utility's books of account on December 31,



1 1997, over the carryover adjusted basis for federal income tax  
2 purposes on December 31, 1997 of all assets and liabilities owned by  
3 the gas, electric, or gas and electric public utility as of December 31,  
4 1997. "Books of account" for gas, gas and electric, and electric public  
5 utilities means the uniform system of accounts as promulgated by the  
6 Federal Energy Regulatory Commission and adopted by the Board of  
7 Public Utilities. The following adjustments to entire net income shall  
8 be made pursuant to this section:

9 (A) Depreciation for property placed in service prior to January 1,  
10 1998 shall be adjusted as follows:

11 (i) Depreciation for federal income tax purposes shall be  
12 disallowed in full.

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

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

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

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

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

45 (10) Entire net income shall exclude all income of an alien  
46 corporation the activities of which are limited in this State to investing  
47 or trading in stocks and securities for its own account, investing or  
48 trading in commodities for its own account, or any combination of

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

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

30 (12) (A) Notwithstanding the provisions of subsection (k) of  
31 section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C.  
32 s.168, subsection (b) of section 1400L of the federal Internal Revenue  
33 Code of 1986, 26 U.S.C. s.1400L, or any other federal law, for  
34 property acquired after September 10, 2001, the depreciation  
35 deduction otherwise allowed pursuant to section 167 of the federal  
36 Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined  
37 pursuant to the provisions of the federal Internal Revenue Code of  
38 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001.

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

44 (13) (A) Notwithstanding the provisions of section 179 of the  
45 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for property  
46 placed in service on or after January 1, 2004, the costs that a taxpayer  
47 may otherwise elect to treat as an expense which is not chargeable to a  
48 capital account shall be determined pursuant to the provisions of the

1 federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect  
2 on December 31, 2002.

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

8 (14) Notwithstanding the provisions of subsection (i) of section  
9 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),  
10 for privilege periods beginning after December 31, 2008 and before  
11 January 1, 2011, entire net income shall include the amount of  
12 discharge of indebtedness income excluded for federal income tax  
13 purposes pursuant to subsection (i) of section 108 of the federal  
14 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege  
15 periods beginning on or after January 1, 2014 and before January 1,  
16 2019, entire net income shall exclude the amount of discharge of  
17 indebtedness income included for federal income tax purposes,  
18 pursuant to subsection (i) of section 108 of the federal Internal  
19 Revenue Code of 1986 (26 U.S.C. s.108).

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

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

28 (B) For purposes of this paragraph, "net deferred tax liability"  
29 means deferred tax liabilities that exceed the deferred tax assets of the  
30 combined group, as computed in accordance with generally accepted  
31 accounting principles, and "net deferred tax asset" means that deferred  
32 tax assets exceed the deferred tax liabilities of the combined group, as  
33 computed in accordance with generally accepted accounting  
34 principles.

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

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

46 (E) (i) Beginning with the combined group's first privilege period  
47 on or after January 1 of the fifth year after the effective date of  
48 P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be

1 entitled to a deduction from combined group entire net income equal  
2 to one-tenth of the amount necessary to offset the increase in the net  
3 deferred tax liability or decrease in the net deferred tax asset, or  
4 aggregate change from a net deferred tax asset to a net deferred tax  
5 liability, according to the schedule provided by subsubparagraphs (ii)  
6 and (iii) of this subparagraph (E). Such increase in the net deferred tax  
7 liability or decrease in the net deferred tax asset or the aggregate  
8 change from a net deferred tax asset to a net deferred tax liability shall  
9 be computed based on the change that would result from the  
10 imposition of the unitary reporting requirements under sections 1 and  
11 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to  
12 C.54:10A-4.11) but for the deduction provided under this paragraph as  
13 of the effective date of this paragraph.

14 (ii) For group privilege periods beginning on and after January 1,  
15 2023, but before January 1, 2030, the combined group may deduct one  
16 percent of the amount necessary to offset the increase in the net  
17 deferred tax liability or decrease in the net deferred tax asset, or  
18 aggregate change from a net deferred tax asset to a net deferred tax  
19 liability, during a group privilege period. Such increase in the net  
20 deferred tax liability or decrease in the net deferred tax asset or the  
21 aggregate change from a net deferred tax asset to a net deferred tax  
22 liability shall be computed based on the change that would result from  
23 the imposition of the unitary reporting requirements under sections 1  
24 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-  
25 4.6 to C.54:10A-4.11) but for the deduction provided under this  
26 paragraph as of the effective date of this paragraph.

27 (iii) For group privilege periods beginning on and after January 1,  
28 2030, the combined group may deduct up to five percent of any  
29 remaining unused amount of the deduction during the group privilege  
30 period, until the group privilege period in which the total deduction  
31 amount has been fully utilized. Such increase in the net deferred tax  
32 liability or decrease in the net deferred tax asset or the aggregate  
33 change from a net deferred tax asset to a net deferred tax liability shall  
34 be computed based on the change that would result from the  
35 imposition of the unitary reporting requirements under sections 1 and  
36 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to  
37 C.54:10A-4.11) but for the deduction provided under this paragraph as  
38 of the effective date of this paragraph.

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

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

46 (ii) the resulting amount shall be further divided by the New Jersey  
47 unitary business allocation factor that was used by the combined group

1 in the calculation of the deferred tax assets and deferred tax liabilities  
2 as described in subparagraph (E) of this paragraph;

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

6 (G)The deduction calculated under this paragraph shall not be  
7 adjusted as a result of any events happening subsequent to such  
8 calculation, including, but not limited to, any disposition or  
9 abandonment of assets. Such deduction shall be calculated without  
10 regard to the federal tax effect and shall not alter the tax basis of any  
11 asset. If the deduction under this section is greater than combined  
12 group entire net income, any excess deduction shall be carried forward  
13 and applied as a deduction to combined group entire net income in  
14 future privilege periods until fully utilized.

15 (H)Any combined group intending to claim a deduction under this  
16 paragraph shall file a statement with the director on or before July 1 of  
17 the year subsequent to the first privilege period for which a combined  
18 return is required. Such statement shall specify the total amount of the  
19 deduction which the combined group claims on such form and in such  
20 manner as prescribed by the director. No deduction shall be allowed  
21 under this paragraph for any privilege period except to the extent  
22 claimed on such timely filed statement in accordance with this  
23 paragraph.

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

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

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

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

43 (A)Notwithstanding subparagraph (A) of paragraph (2) of this  
44 subsection or any other law or treaty to the contrary, for a corporation  
45 that is incorporated or formed in a foreign nation with a  
46 comprehensive tax treaty with the United States, and that is not a  
47 member of a world-wide group combined return filed pursuant to  
48 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11), entire

1 net income shall not include an item of income or loss excluded or  
2 exempted from federal taxable income under the terms of the treaty,  
3 and no other deduction, exclusion, or elimination shall be permitted for  
4 an item of income or loss excluded by this paragraph.

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

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

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

1 of national banks, real estate investment trusts, or any of the following  
2 entities organized under the laws of this State: credit unions, savings  
3 banks, savings and loan and building and loan associations,  
4 pawnbrokers, and State banks and trust companies.

5 (n) "International banking facility" shall mean a set of asset and  
6 liability accounts segregated on the books and records of a depository  
7 institution, United States branch or agency of a foreign bank, or an  
8 Edge or Agreement Corporation that includes only international  
9 banking facility time deposits and international banking facility  
10 extensions of credit as such terms are defined in section 204.8(a)(2)  
11 and section 204.8(a)(3) of Regulation D of the board of governors of  
12 the Federal Reserve System, 12 CFR Part 204, effective December 3,  
13 1981. In the event that the United States enacts a law, or the board of  
14 governors of the Federal Reserve System adopts a regulation which  
15 amends the present definition of international banking facility or of  
16 such facilities' time deposits or extensions of credit, the Commissioner  
17 of Banking and Insurance shall forthwith adopt regulations defining  
18 such terms in the same manner as such terms are set forth in the laws  
19 of the United States or the regulations of the board of governors of the  
20 Federal Reserve System. The regulations of the Commissioner of  
21 Banking and Insurance shall thereafter provide the applicable  
22 definitions.

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

26 (p) "New Jersey S corporation" means a taxpayer that has made a  
27 valid election to be an S corporation for federal tax purposes, and that  
28 has not made a valid election pursuant to subsection d. of section  
29 <sup>1</sup>[20] 3<sup>1</sup> of <sup>1</sup>[P.L.2022, c.133] P.L.1993, c.173<sup>1</sup> (C.54:10A-5.22).

30 (q) "Public Utility" means "public utility" as defined in R.S.48:2-  
31 13.

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

44 (s) "Savings institution" means a state or federally chartered  
45 building and loan association, savings and loan association, or savings  
46 bank.

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

1 (u) "Prior net operating loss conversion carryover" means a net  
2 operating loss incurred in a privilege period ending prior to July 31,  
3 2019 and converted from a pre-allocation net operating loss to a post-  
4 allocation net operating loss as follows:

5 (1) As used in this subsection:

6 "Base year" means the last privilege period ending prior to July 31,  
7 2019.

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

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

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

22 (A) The taxpayer shall first calculate the tax value of its UNOL for  
23 the base year and for each preceding privilege period for which there is  
24 a UNOL. The value of the UNOL for each privilege period is equal to  
25 the product of (I) the amount of the taxpayer's UNOL for a privilege  
26 period, and (II) the taxpayer's base year BAF. This result shall equal  
27 the taxpayer's prior net operating loss conversion carryover.

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



1 (C) The prior net operating loss conversion carryover computed  
2 under this subsection shall be applied against the entire net income  
3 allocated to this State before the net operating loss carryover computed  
4 under subsection (v) of this section.

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

8 (1) Net operating loss carryover. A net operating loss for any  
9 privilege period ending on or after July 31, 2019, shall be a net  
10 operating loss carryover to each of the twenty privilege periods  
11 following the period of the loss. The entire amount of the net  
12 operating loss for any privilege period shall be carried to the earliest of  
13 the privilege periods to which the loss may be carried. For privilege  
14 periods ending before July 31, 2023, the portion of the loss which shall  
15 be carried to each of the other privilege periods shall be the excess, if  
16 any, of the amount of the loss over the sum of the entire net income,  
17 computed without the exclusions permitted in paragraphs (4) and (5)  
18 of subsection (k) of this section allocated to this State. For privilege  
19 periods ending on and after July 31, 2023, the portion of the loss that  
20 shall be carried to each of the other privilege periods shall be the  
21 excess, if any, of the amount of the loss over the sum of the entire net  
22 income, after the application of paragraphs (4) and (5) of subsection  
23 (k) of this section allocated to this State; provided, however, for the  
24 purpose of computing taxable net income for the privilege period, the  
25 net operating loss carryover shall only be subtracted from entire net  
26 income allocated to this State when the entire net income allocated to  
27 this State is greater than zero.

28 (2) Net operating loss. For purposes of this paragraph the term "net  
29 operating loss" means the excess of the deductions over the gross  
30 income used in computing entire net income, without regard to any net  
31 operating loss carryover, and for privilege periods ending before July  
32 31, 2023, computed without the exclusions in paragraphs (4) and (5) of  
33 subsection (k) of this section, and for privilege periods ending on and  
34 after July 31, 2023, computed after the application of paragraphs (4)  
35 and (5) of subsection (k) of this section, allocated to this State pursuant  
36 to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through  
37 C.54:10A-10).

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

45 (4) A net operating loss carryover shall not include any net  
46 operating loss incurred during any privilege period ending prior to July  
47 31, 2019.

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

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

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

1 For purposes of this subsection:

2 "U.S. domestic corporations" means: (1) business entities wherever  
3 incorporated or formed that are U.S. domestic corporations, are  
4 deemed to be, or are treated as U.S. domestic corporations under the  
5 provisions of the federal Internal Revenue Code; or (2) any entities  
6 incorporated or formed under the laws of a foreign nation that are  
7 required to file federal tax returns if such entities have effectively  
8 connected income within the meaning of the federal Internal Revenue  
9 Code; and

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

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

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

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

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

29 (4) 50% or less of whose gross receipts for the privilege period  
30 consist of premiums from arrangements that constitute insurance for  
31 federal income tax purposes.

32 A combinable captive insurance company shall not be exempt  
33 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive insurance  
34 company that does not meet the definition of combinable captive  
35 insurance company shall be excluded as provided in subsection k. of  
36 section 18 of P.L.2018, c.48 (C.54:10A-4.6) and shall be exempt under  
37 section 3 of P.L.1945, c.162 (C.54:10A-3).

38 For purposes of this definition:

39 "Affiliated group" shall have the same meaning as that term is  
40 given by section 1504 of the federal Internal Revenue Code, 26 U.S.C.  
41 s.1504, except that the term "common parent corporation" as used in  
42 section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504,  
43 shall mean any person, as defined in section 7701 of the federal  
44 Internal Revenue Code, 26 U.S.C. s.7701, and references to "at least  
45 80%" in section 1504 of the federal Internal Revenue Code, 26 U.S.C.  
46 s.1504, shall be read as "50% or more." Section 1504 of the federal  
47 Internal Revenue Code, 26 U.S.C. s.1504, shall be read without regard  
48 to the exclusions provided for in subsection (b) of that section.

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

5 "Premiums" includes consideration for annuity contracts and  
6 excludes any part of the consideration for insurance, reinsurance, or  
7 annuity contracts that do not provide bona fide insurance, reinsurance,  
8 or annuity benefits.

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

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

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

31 (bb) "Group privilege period" means, if two or more  
32 members in the combined group file in the same federal consolidated  
33 tax return, the same income year as that used on the federal  
34 consolidated tax return and, in all other cases, the privilege period of  
35 the managerial member.

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

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

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

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

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

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

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

44 (hh) "Captive investment company" shall mean, for  
45 privilege periods ending on and after July 31, 2023, an investment  
46 company that is not regularly traded on an established securities  
47 market and of which more than 50 percent of the voting stock is  
48 owned or controlled, directly or indirectly, by a single corporation,

1 other than an investment company, that is not exempt from federal  
2 income tax. For purposes of this subsection, a captive investment  
3 company shall not include any captive investment company of which  
4 at least 50 percent of the shares, by vote or value, is owned or  
5 controlled, directly or indirectly, by a state or federally chartered bank,  
6 savings bank, or savings and loan association with assets that do not  
7 exceed \$15 billion.

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

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

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

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

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

1 permitted for federal purposes, solely as a result of the entity being a  
2 real estate investment trust, when computing federal taxable net  
3 income. A captive real estate investment trust shall be a member of a  
4 combined group and shall be included as a member on the combined  
5 return.

6 As used in this subsection:

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

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

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

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

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

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

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

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

1 For privilege periods ending on and after July 31, 2023, any voting  
2 stock in a regulated investment company that is held in a segregated  
3 asset account of a life insurance corporation, as described in section  
4 817 of the Internal Revenue Code (26 U.S.C. s.817), shall not be taken  
5 into account for purposes of determining whether a regulated  
6 investment company is a captive regulated investment company.

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

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

41 (cf: P.L.2023, c.96, s.1)]<sup>2</sup>

42

43 <sup>2</sup>[15. N.J.S.54A:5-1 is amended to read as follows:

44 54A:5-1. New Jersey Gross Income Defined. New Jersey gross  
45 income shall consist of the following categories of income:

46 a. Salaries, wages, tips, fees, commissions, bonuses, and other  
47 remuneration received for services rendered whether in cash or in  
48 property, and amounts paid or distributed, or deemed paid or



1 distributed, out of a medical savings account that are not excluded  
2 from gross income pursuant to section 5 of P.L.1997, c.414  
3 (C.54A:6-27).

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

10 (1) taxes based on income;

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

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

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

45 A taxpayer's net gain or loss on the sale, exchange or other  
46 disposition of a share of an S corporation shall be calculated by  
47 increasing the adjusted basis of the share by an amount equal to the  
48 shareholder's net losses and deductions in respect of the share

1 allowed and deducted from income for federal income tax purposes,  
2 not including any personal net operating loss deductions, to the  
3 extent that such net losses were not offset by the taxpayer's pro rata  
4 share of S corporation income otherwise subject to taxation  
5 pursuant to subsection p. of this section in respect of another S  
6 corporation, subject to rules of priority and assignment determined  
7 by the director.

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

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

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

- 45 (i) A statutory merger or consolidation;  
46 (ii) The acquisition by one corporation, in exchange solely for  
47 all or part of its voting stock (or in exchange solely for all or a part  
48 of the voting stock of a corporation which is in control of the

1 acquiring corporation) of stock of another corporation if,  
2 immediately after the acquisition, the acquiring corporation has  
3 control of such other corporation (whether or not such acquiring  
4 corporation had control immediately before the acquisition);

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

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

19 (v) A recapitalization;

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

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

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

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

1 For purposes of this clause, the term "a party to a reorganization"  
2 includes a corporation resulting from a reorganization, and both  
3 corporations, in the case of a reorganization resulting from the  
4 acquisition by one corporation of stock or properties of another. In  
5 the case of a reorganization qualifying under subclause (i) by reason  
6 of subclause (vii) the term "a party to a reorganization" includes the  
7 controlling corporation referred to in such subclause (vii).

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

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

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

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

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

29 g. Gambling winnings.

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

31 i. Income in respect of a decedent.

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

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

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

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

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

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

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

32 (cf: P.L.2018, c.131, s.8)**】<sup>2</sup>**

33

34 <sup>2</sup>**[**16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to  
35 read as follows:

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

1 and less than 35 percent of the facility is leased by the entity at the  
2 time of the contract and under any agreement to subsequently lease the  
3 facility. The prevailing wage rate shall be the rate determined by the  
4 Commissioner of Labor and Workforce Development pursuant to the  
5 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the  
6 purposes of this section, "authority financial assistance" means any  
7 loan, loan guarantee, grant, incentive, tax exemption or other financial  
8 assistance that is approved, funded, authorized, administered or  
9 provided by the authority to any entity and is provided before, during  
10 or after completion of a project, including but not limited to, all  
11 authority financial assistance received by the entity pursuant to the  
12 "Business Employment Incentive Program Act," P.L.1996, c.26  
13 (C.34:1B-124 et al.) that enables the entity to engage in a construction  
14 contract, but this section shall not be construed as requiring the  
15 payment of the prevailing wage for construction commencing more  
16 than two years after an entity has executed with the authority a  
17 commitment letter regarding authority financial assistance and the first  
18 payment or other provision of the assistance is received.

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

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

40 (cf: P.L.2020, c.156, s.112)]<sup>2</sup>

41

42 <sup>2</sup>10. (New section) a. Notwithstanding any provision of  
 43 P.L.2020, c.156 (C.34:1B-269 et al.), section 14 of P.L.2023, c.98  
 44 (C.34:1B-335.1), or any provision of law to the contrary, any  
 45 project approved by the authority after the effective date of  
 46 P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to:

47 (1) the requirements of subsection f. of section 57 of P.L.2020,  
 48 c.156 (C.34:1B-325), as amended by P.L. , c. (C. ) (pending

1 before the Legislature as this bill), concerning the average  
2 occupancy rate of commercial projects;  
3 (2) any lower fees promulgated by the authority on or after the  
4 effective date of P.L. , c. (C. ) (pending before the  
5 Legislature as this bill), except that such lower fees shall not apply  
6 to any fees already paid to the authority;  
7 (3) the requirements of paragraphs (1) and (4) of subsection f. of  
8 section 60 of P.L. 2020, c.156 (C.34:1B-328), as amended by  
9 P.L. , c. (C. ) (pending before the Legislature as this bill),  
10 concerning the execution of community benefits agreements;  
11 (4) the requirements of subsection b. of section 62 of P.L.2020,  
12 c.156 (C.34:1B-330), as amended by P.L. , c. (C. ) (pending  
13 before the Legislature as this bill);  
14 (5) the requirements of subsection a. of section 63 of P.L.2020,  
15 c.156 (C.34:1B-331), as amended by P.L. , c. (C. ) (pending  
16 before the Legislature as this bill);  
17 (6) the provisions of subsection b. and subsection c. of section  
18 60 of P.L.2020, c.156 (C.34:1B-328), as amended by P.L. ,  
19 c. (C. ) (pending before the Legislature as this bill); and  
20 (7) any other provision concerning the terms and conditions of  
21 an incentive award issued under the New Jersey Aspire Program  
22 that the authority determines will make the administration of the  
23 program consistent with the provisions of 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), as amended and supplemented by  
26 P.L. , c. (C. ) (pending before the Legislature as this bill),  
27 provided that such provision shall not have a materially adverse  
28 impact on any projects approved by the authority before the  
29 effective date of P.L. , c. (C. ) (pending before the  
30 Legislature as this bill).  
31 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-  
32 269 et al.), section 14 of P.L.2023, c.98 (C.34:1B-335.1), or any  
33 other provision of law to the contrary, any project approved by the  
34 authority after the effective date of P.L.2020, c.156 (C.34:1B-269 et  
35 al.) shall not be subject to any proration of tax credits for any year  
36 of the eligibility period.<sup>2</sup>

37

38 <sup>2</sup>[17.] 11.<sup>2</sup> This act shall take effect immediately.