

SENATE, No. 4791

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 5, 2026

Sponsored by:
Senator VIN GOPAL
District 11 (Monmouth)

SYNOPSIS

Makes any business owned by both women and minorities eligible for certain business certifications and set-aside programs.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning eligibility for certain business certifications and
2 set-aside programs for women and minorities and amending
3 various parts of the statutory law.

4

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

7

8 1. Section 3 of P.L.1987, c.318 (C.5:10-21.1a) is amended to
9 read as follows:

10 3. The authority is authorized and directed to establish, prior to
11 initiating any project on or after the effective date of this 1987
12 amendatory and supplementary act, small business, minority
13 business, minority and women's business, and women's business
14 set-aside contract goals and procedures in accordance with the
15 provisions of the "Set-Aside Act for Small Businesses, Female
16 Businesses, and Minority Businesses," P.L. 1983, c. 482 (C. 52:32-
17 17 et seq.).

18 (cf: P.L.1987, c.318, s.3)

19

20 2. Section 2 of P.L.1985, c.539 (C.5:12-185) is amended to
21 read as follows:

22 2. As used in this act:

23 a. "Casino licensee" means any entity which holds or is an
24 applicant for a casino license pursuant to section 87 of P.L.1977, c.
25 110 (C. 5:12-87).

26 b. "Minority business enterprise" means a business that is:

27 (1) A sole proprietorship, owned and controlled by a minority;

28 (2) A partnership or joint venture owned and controlled by
29 minorities in which at least 51 **[%]** percent of the ownership interest
30 is held by minorities and the management and daily business
31 operations of which are controlled by one or more of the minorities
32 who own it; or

33 (3) A corporation or other entity whose management and daily
34 business operations are controlled by one or more minorities who
35 own it, and which is at least 51 **[%]** percent owned by one or more
36 minorities, or if stock is issued, at least 51 **[%]** percent of the stock
37 is owned by one or more minorities.

38 c. "Minority" means a person who is:

39 (1) Black, which is a person having origins in any of the black
40 racial groups in Africa; or

41 (2) Hispanic, which is a person of Spanish or Portuguese
42 culture, with origins in Mexico, South or Central America, or the
43 Caribbean Islands, regardless of race; or

44 (3) Asian American, which is a person having origins in any of
45 the original peoples of the Far East, Southeast Asia, Indian

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

Matter underlined thus is new matter.

1 Subcontinent, Hawaii, or the Pacific Islands; or

2 (4) American Indian or Alaskan native, which is a person having
3 origins in any of the original peoples of North America.

4 d. "Women's business enterprise" means a business that is:

5 (1) A sole proprietorship owned and controlled by a woman; or

6 (2) A partnership or joint venture owned and controlled by
7 women in which at least 51【%】 percent of the ownership is held by
8 women and the management and daily business operations of which
9 are controlled by one or more women who own it; or

10 (3) A corporation or other entity whose management and daily
11 business operations are controlled by one or more women who own
12 it, and which is at least 51【%】 percent owned by women, or if stock
13 is issued, at least 51【%】 percent of the stock is owned by one or
14 more women.

15 e. "Minority and women's business enterprise" means a business
16 that is:

17 (1) A partnership or joint venture owned and controlled by
18 minorities and women in which at least 51 percent of the ownership
19 interest is held by a combination of minorities and women, and the
20 management and daily business operations of which are controlled
21 by one or more of the minorities or women who own it; or

22 (2) A corporation or other entity whose management and daily
23 business operations are controlled by one or more minorities or
24 women who own it, and which is at least 51 percent owned by a
25 combination of minorities and women, or if stock is issued, at least
26 51 percent of the stock is owned by a combination of minorities and
27 women.

28 (cf: P.L.1987, c.137, s.1)

29

30 3. Section 4 of P.L.1985, c.539 (C.5:12-186) is amended to
31 read as follows:

32 4. a. Notwithstanding the provisions of any law, rule, or
33 regulation to the contrary, every casino licensee shall establish
34 goals of expending at least 5【%】 percent of the dollar value of its
35 contracts for goods and services with minority, minority and
36 women's, and women's business enterprises by the end of the third
37 year following the receipt of a casino license, and 10【%】 percent of
38 the dollar value of its contracts for goods and services with
39 minority, minority and women's, and women's business enterprises
40 by the end of the sixth year following the receipt of a casino
41 license; and each such licensee shall have a goal of expending
42 15【%】 percent of the dollar value of its contracts for goods and
43 services with minority, minority and women's, and women's
44 business enterprises by the end of the 10th year following the
45 receipt of a casino license. Each casino licensee shall be required to
46 demonstrate annually that the requirements of this act have been

1 met by submitting a report which shall include the total dollar value
2 of contracts awarded for goods or services and the percentage
3 thereof awarded to minority, minority and women's, and women's
4 business enterprises.

5 As used in this section, "goods and services" shall not include (1)
6 utilities and taxes; (2) financing costs, such as mortgages, loans or
7 any other type of debt; (3) medical insurance; (4) dues and fees to
8 the Atlantic City Casino Association; (5) fees and payments to a
9 parent or affiliated company of the casino licensee other than those
10 that represent fees and payments for goods and services supplied by
11 non-affiliated persons through an affiliated company for the use or
12 benefit of the casino licensee; and (6) rents paid for real property
13 and any payments constituting the price of an interest in real
14 property as a result of a real estate transaction.

15 b. A casino licensee shall make a good faith effort to meet the
16 requirements of this section and shall annually demonstrate to the
17 division that such an effort was made.

18 c. A casino licensee may fulfill no more than 70【%】 percent of
19 its obligation or part of it under this act by requiring a vendor to set
20 aside a portion of his contract for minority, minority and women's,
21 or women's business enterprises. Upon request, the licensee shall
22 provide the division with proof of the amount of the set-aside.
23 (cf: P.L.2011, c.19, s.111)
24

25 4. Section 5 of P.L.1985, c.539 (C.5:12-187) is amended to
26 read as follows:

27 5. a. Every casino licensee shall establish goals of expending at
28 least 5【%】 percent of the dollar value of its bus business with
29 minority, minority and women's, and women's business enterprises
30 by the end of the third year following the receipt of a casino license,
31 and 10【%】 percent of the dollar value of its bus business with
32 minority, minority and women's, and women's business enterprises
33 by the end of the sixth year following the receipt of a casino
34 license; and each such licensee shall have a goal of expending
35 15【%】 percent of the dollar value of its bus business with minority,
36 minority and women's, and women's business enterprises by the
37 end of the 10th year following the receipt of a casino license. Each
38 casino licensee shall be required to demonstrate annually that the
39 requirements of this act have been met by submitting a report which
40 shall include the total bus business expended and the percentage
41 thereof awarded to minority and women's business enterprises.

42 b. A casino licensee shall make a good faith effort to meet the
43 requirements of this section.

44 (cf: P.L.2011, c.19, s.112)

1 5. Section 7 of P.L.1987, c.137 (C.5:12-187.1) is amended to
2 read as follows:

3 7. If the division determines that the provisions of sections 4
4 and 5 of P.L.1985, c.539 (C.5:12-186 and C.5:12-187) relating to
5 expenditures and assignments to minority, minority and women's,
6 and women's business enterprises have not been met by a licensee,
7 the division may recommend to the commission the suspension or
8 revocation of the casino license, and the commission may, in its
9 discretion, revoke or suspend the license, or the division may fine
10 or impose appropriate conditions on the licensee, to ensure that the
11 goals for expenditures and assignments to minority, minority and
12 women's, and women's business enterprises are met; except that if
13 a determination is made that a casino licensee has failed to
14 demonstrate compliance with the provisions of sections 4 and 5 of
15 P.L.1985, c.539 (C.5:12-186 and C.5:12-187), a casino licensee will
16 have 90 days from the date of the determination of noncompliance
17 within which to comply with the provisions of those sections.
18 (cf: P.L.2011, c.19, s.113)

19

20 6. R.S.10:2-1 is amended to read as follows:

21 10:2-1. Antidiscrimination provisions. Every contract for or on
22 behalf of the State or any county or municipality or other political
23 subdivision of the State, or any agency of or authority created by
24 any of the foregoing, for the construction, alteration or repair of any
25 public building or public work or for the acquisition of materials,
26 equipment, supplies or services shall contain provisions by which
27 the contractor agrees that:

28 a. In the hiring of persons for the performance of work under
29 this contract or any subcontract hereunder, or for the procurement,
30 manufacture, assembling or furnishing of any such materials,
31 equipment, supplies or services to be acquired under this contract,
32 no contractor, nor any person acting on behalf of such contractor or
33 subcontractor, shall, by reason of race, creed, color, national origin,
34 ancestry, marital status, gender identity or expression, affectional or
35 sexual orientation or sex, discriminate against any person who is
36 qualified and available to perform the work to which the
37 employment relates;

38 b. No contractor, subcontractor, nor any person on his behalf
39 shall, in any manner, discriminate against or intimidate any
40 employee engaged in the performance of work under this contract
41 or any subcontract hereunder, or engaged in the procurement,
42 manufacture, assembling or furnishing of any such materials,
43 equipment, supplies or services to be acquired under such contract,
44 on account of race, creed, color, national origin, ancestry, marital
45 status, gender identity or expression, affectional or sexual
46 orientation or sex;

1 c. There may be deducted from the amount payable to the
2 contractor by the contracting public agency, under this contract, a
3 penalty of \$50.00 for each person for each calendar day during
4 which such person is discriminated against or intimidated in
5 violation of the provisions of the contract; and

6 d. This contract may be canceled or terminated by the
7 contracting public agency, and all money due or to become due
8 hereunder may be forfeited, for any violation of this section of the
9 contract occurring after notice to the contractor from the contracting
10 public agency of any prior violation of this section of the contract.

11 No provision in this section shall be construed to prevent a board
12 of education from designating that a contract, subcontract, or other
13 means of procurement of goods, services, equipment, or
14 construction shall be awarded to a small business enterprise,
15 minority business enterprise, minority and women's business
16 enterprise, or **[a]** women's business enterprise pursuant to
17 P.L.1985, c.490 (C.18A:18A-51 et seq.).

18 (cf: P.L.2006, c.100, s.1)

19
20 7. Section 8 of P.L.1962, c.37 (C.10:5-2.1) is amended to read
21 as follows:

22 8. Nothing contained in this act or in P.L. 1945, c. 169 (C.
23 10:5-1 et seq.) shall be construed to require or authorize any act
24 prohibited by law, nor to prevent the award of a contract to a small
25 business enterprise, minority business enterprise, minority and
26 women's business enterprise, or women's business enterprise under
27 P.L.1985, c.490 (C.18A:18A-51 et seq.) nor to conflict with the
28 provisions of chapter 2 (child labor) of Title 34 of the Revised
29 Statutes, nor to require the employment of any person under the age
30 of 18, nor to prohibit the establishment and maintenance of bona
31 fide occupational qualifications or the establishment and
32 maintenance of apprenticeship requirements based upon a
33 reasonable minimum age, nor to prevent the termination or change
34 of the employment of any person who in the opinion of the
35 employer, reasonably arrived at, is unable to perform adequately the
36 duties of employment, nor to preclude discrimination among
37 individuals on the basis of competence, performance, conduct, or
38 any other reasonable standards, nor to interfere with the operation
39 of the terms or conditions and administration of any bona fide
40 retirement, pension, employee benefit or insurance plan or program,
41 including any State or locally administered public retirement
42 system, provided that the provisions of those plans or programs are
43 not used to establish an age for mandatory retirement.

44 (cf: P.L.1988, c.37, s.9)

45
46 8. N.J.S.18A:18A-15 is amended to read as follows:

1 18A:18A-15. Specifications generally. Any specifications for
2 the provision or performance of goods or services under this chapter
3 shall be drafted in a manner to encourage free, open and
4 competitive bidding. In particular, no specifications under this
5 chapter may:

6 a. Require any standard, restriction, condition or limitation not
7 directly related to the purpose, function or activity for which the
8 contract is awarded; or

9 b. Require that any bidder be a resident of, or that the bidder's
10 place of business be located in, the county or school district in
11 which the contract will be awarded or performed, unless the
12 physical proximity of the bidder is requisite to the efficient and
13 economical performance of the contract; or

14 c. Discriminate on the basis of race, religion, sex, national
15 origin creed, color, ancestry, age, marital status, affectional or
16 sexual orientation, familial status, liability for service in the Armed
17 Forces of the United States, or nationality; or

18 d. Require, with regard to any contract, the furnishing of any
19 "brand name," but may in all cases require "brand name or
20 equivalent," except that if the goods or services to be provided or
21 performed are proprietary, such goods or services may be purchased
22 by stipulating the proprietary goods or services in the bid
23 specification in any case in which the resolution authorizing the
24 contract so indicates, and the special need for such proprietary
25 goods or services is directly related to the performance, completion
26 or undertaking of the purpose for which the contract is awarded; or

27 e. Fail to include any option for renewal, extension, or release
28 which the board of education may intend to exercise or require; or
29 any terms and conditions necessary for the performance of any extra
30 work; or fail to disclose any matter necessary to the substantial
31 performance of the contract.

32 The specifications for every contract for public work, the entire
33 cost whereof will exceed \$20,000.00, shall provide that the board of
34 education, through its authorized agent, shall upon completion of
35 the contract report to the department as to the contractor's
36 performance, and shall also furnish such report from time to time
37 during performance if the contractor is then in default.

38 Any specification which knowingly excludes prospective bidders
39 by reason of the impossibility of performance, bidding or
40 qualification by any but one bidder, except as provided herein, shall
41 be null and void and of no effect and shall be readvertised for
42 receipt of new bids, and the original contract shall be set aside by
43 the board of education.

44 No provision in this section shall be construed to prevent a board
45 of education from designating that a contract for goods or services
46 shall be awarded to a small business enterprise, a minority business

1 enterprise, a minority and women's business enterprise, or a
2 women's business enterprise pursuant to P.L.1985, c.490
3 (C.18A:18A-51 et seq.).

4 Any prospective bidder who wishes to challenge a bid
5 specification shall file such challenges in writing with the
6 purchasing agent no less than three business days prior to the
7 opening of the bids. Challenges filed after that time shall be
8 considered void and having no impact on the board of education or
9 the award of a contract.
10 (cf: P.L.1999, c.440, s.63)

11
12 9. Section 1 of P.L.1985, c.490 (C.18A:18A-51) is amended to
13 read as follows:

14 1. As used in this act:

15 a. "Minority" means a person who is:

16 (1) Black, which is a person having origins in any of the black
17 racial groups in Africa; or

18 (2) Hispanic, which is a person of Spanish or Portuguese
19 culture, with origins in Mexico, South America, Central America,
20 or the Caribbean Islands, regardless of race; or

21 (3) Asian-American, which is a person having origins in any of
22 the original peoples of the Far East, Southeast Asia, the Indian
23 Subcontinent, Hawaii, or the Pacific Islands; or

24 (4) American Indian or Alaskan native, which is a person having
25 origins in any of the original peoples in North America;

26 b. "Women's business enterprise" means a business which is
27 independently owned and operated, which is qualified pursuant to
28 N.J.S.18A:18A-27 and which is:

29 (1) A sole proprietorship owned and controlled by a woman;

30 (2) A partnership or joint venture owned and controlled by
31 women in which at least 51【%】 percent of the ownership is held by
32 women and the management and daily business operations of which
33 are controlled by one or more women who own it; or

34 (3) A corporation or other entity whose management and daily
35 business operations are controlled by one or more women who own
36 it, and which is at least 51【%】 percent owned by women, or if stock
37 is issued, at least 51【%】 percent of the stock is owned by one or
38 more women;

39 c. "Minority business enterprise" means a business which is
40 independently owned and operated, which is qualified pursuant to
41 N.J.S.18A:18A-27 and which is:

42 (1) A sole proprietorship, owned and controlled by a minority;

43 (2) A partnership or joint venture owned and controlled by
44 minorities in which at least 51【%】 percent of the ownership interest
45 is held by minorities and the management and daily business

1 operations of which are controlled by one or more of the minorities
2 who own it; or

3 (3) A corporation or other entity whose management and daily
4 business operations are controlled by one or more minorities who
5 own it, and which is at least 51【%】 percent owned by one or more
6 minorities, or if stock is issued, at least 51【%】 percent of the stock
7 is owned by one or more minorities;

8 d. "Small business enterprise" means a business which is
9 independently owned and operated, which is qualified pursuant to
10 N.J.S.18A:18A-27 and which is a sole proprietorship, partnership or
11 corporation which is a size and type defined by the Commissioner
12 of the Department of Commerce, Energy and Economic
13 Development;

14 e. "Set-aside contract" means (1) a contract for goods,
15 equipment, construction, or services which is designated as a
16 contract for which bids are invited and accepted only from small
17 business enterprises, minority business enterprises or women's
18 business enterprises, as appropriate, (2) a portion of a contract when
19 that portion has been so designated, or (3) any other purchase or
20 procurement so designated; **【and】**

21 f. "Total procurements" means all purchases, contracts or
22 acquisitions of a board of education, whether by competitive
23 bidding, single source contracting, or other method of procurement,
24 as prescribed or permitted by law **【.】**; and

25 g. "Minority and women's business" means a business which
26 is:

27 (1) A partnership or joint venture owned and controlled by
28 minorities and women in which at least 51 percent of the ownership
29 interest is held by a combination of minorities and women and the
30 management and daily business operations of which are controlled
31 by one or more of the minorities or women who own it; or

32 (2) A corporation or other entity whose management and daily
33 business operations are controlled by one or more minorities or
34 women who own it, and of which at least 51 percent of the legal
35 beneficial ownership is held by a combination of minorities and
36 women.

37 (cf: P.L.1988, c.37, s.2)

38

39 10. Section 2 of P.L.1985, c.490 (C.18A:18A-52) is amended to
40 read as follows:

41 2. a. A board of education may, by resolution, establish a
42 minority business enterprise set-aside program. In authorizing such
43 a program, the board of education shall establish a goal of setting
44 aside a certain percentage of the dollar value of total procurements
45 to be awarded as set-aside contracts to minority business
46 enterprises.

1 b. A board of education may, by resolution, establish a women's
2 business enterprise set-aside program. In authorizing such a
3 program, the board of education shall establish a goal of setting
4 aside a certain percentage of the dollar value of total procurements
5 to be awarded as set-aside contracts to women's business
6 enterprises.

7 c. A board of education may, by resolution, establish a small
8 business enterprise set-aside program. In authorizing such a
9 program, the board of education shall establish a goal of setting
10 aside a certain percentage of the dollar value of total procurements
11 to be awarded as set-aside contracts to small business enterprises.

12 d. A board of education may, by resolution, establish a minority
13 and women's business enterprise set-aside program. In authorizing
14 such a program, the board of education shall establish a goal of
15 setting aside a certain percentage of the dollar value of total
16 procurements to be awarded as set-aside contracts to minority and
17 women's business enterprises.

18 (cf: P.L.1988, c.37, s.3)

19
20 11. Section 3 of P.L.1985, c.490 (C.18A:18A-53) is amended to
21 read as follows:

22 3. a. Any goal established pursuant to section 2 of this act,
23 P.L.1985, c.490 (C.18A:18A-51 et seq.), may be attained by
24 requiring that a portion of a contract shall be subcontracted to a
25 small business enterprise, minority business enterprise, minority
26 and women's business enterprise, or women's business enterprise,
27 in addition to designating entire contracts to these enterprises.

28 b. Each board of education shall make a good faith effort to
29 attain any goal established.

30 (cf: P.L.1988, c.37, s.4)

31
32 12. Section 5 of P.L.1985, c.490 (C.18A:18A-55) is amended to
33 read as follows:

34 5. Notwithstanding the provisions of any law to the contrary, a
35 board of education which has established a small business
36 enterprise set-aside program, a minority business enterprise set-
37 aside program, a minority and women's business enterprise set-
38 aside program, or a women's business enterprise set-aside program
39 shall designate that a contract, subcontract, or other means of
40 procurement of goods, services, equipment, or construction shall be
41 awarded to a small business enterprise, a minority business
42 enterprise, a minority and women's business enterprise, or a
43 women's business enterprise, if the board is likely to receive bids
44 from at least two small business enterprises, minority business
45 enterprises, minority and women's business enterprises, or women's
46 business enterprises, as appropriate, at a fair and reasonable price.

1 The designations shall be made prior to any advertisement for
2 bids, if required. Once designated, the advertisement for bids, if
3 necessary, shall indicate that the contract to be awarded is a small
4 business enterprise set-aside contract, a minority business enterprise
5 set-aside contract, a minority and women's business enterprise set-
6 aside contract, or a women's business enterprise set-aside contract,
7 as appropriate. All advertisements for bids shall be published in at
8 least one newspaper which will best provide notice thereof to small
9 business enterprises, minority business enterprises, minority and
10 women's business enterprises, or **【to】** women's business
11 enterprises, as appropriate, sufficiently in advance of the date fixed
12 for receiving the bids to promote competitive bidding, but shall not
13 be published less than 10 days prior to that date.

14 (cf: P.L.1988, c.37, s.5)

15
16 13. Section 6 of P.L.1985, c.490 (C.18A:18A-56) is amended to
17 read as follows:

18 6. a. If the board of education determines that two bids from
19 small **【businesses】** business enterprises, minority business
20 enterprises, minority and women's businesses, or women's
21 businesses cannot be obtained, the board may withdraw the
22 designation of the set-aside contract and resolicit bids on an
23 unrestricted basis pursuant to the provisions of N.J.S.18A:18A-1 et
24 seq. The cancelled designation shall not be considered in
25 determining whether or not the board attained its goal established
26 pursuant to section 2 of this act, P.L.1985, c.490 (C.18A:18A-51 et
27 seq.).

28 b. If the board of education determines that the acceptance of the
29 lowest responsible bid will result in the payment of an unreasonable
30 price, the board shall reject all bids and withdraw the designation of
31 the set-aside contract. Small business enterprises, minority business
32 enterprises, minority and women's business enterprises, or women's
33 business enterprises, as appropriate, shall be notified in writing of
34 the set-aside cancellation, the reasons for the rejection and the
35 board's intent to resolicit bids on an unrestricted basis pursuant to
36 the provisions of N.J.S.18A:18A-1 et seq. The cancelled bid
37 solicitation shall not be considered in determining whether or not
38 the board attained its goal established pursuant to section 2 of this
39 act, P.L.1985, c.490 (C.18A:18A-51 et seq.).

40 (cf: P.L.1988, c.37, s.6)

41
42 14. Section 7 of P.L.1985, c.490 (C.18A:18A-57) is amended to
43 read as follows:

44 7. Any board of education which has established a small
45 business set-aside program, a minority business enterprise set-aside
46 program, a minority and women's business enterprise set-aside

1 program, or a women's business enterprise set-aside program shall
2 prepare a report by January 31 of each year describing the board's
3 efforts in attaining the set-aside goals and the percentage of the
4 dollar value of total procurements awarded in the immediately
5 preceding local fiscal year. The board of education shall publish a
6 list of its attainments in at least one newspaper circulating in the
7 school district by March 1 of each year.

8 (cf: P.L.1988, c.37, s.7)

9
10 15. Section 13 of P.L.1985, c.490 (C.18A:18A-59) is amended
11 to read as follows:

12 13. Where the local board of education determines that a
13 business has been classified as a small business enterprise, minority
14 business enterprise, minority and women's business enterprise, or
15 women's business enterprise on the basis of false information
16 knowingly supplied by the business and has been awarded a
17 contract to which it would not otherwise have been entitled under
18 this act, P.L.1985, c.490 (C.18A:18A-51 et seq.), the local board of
19 education shall have the authority to:

20 a. Assess the business any difference between the contract
21 amount and what the local board of education's cost would have
22 been if the contract had not been awarded in accordance with the
23 provisions of this act;

24 b. In addition to the amount due under subsection a. of this
25 section, assess the business a penalty in an amount of not more than
26 10【%】 percent of the amount of the contract involved; and

27 c. Order the business ineligible to transact any business with the
28 local board of education for a period to be determined by the local
29 board of education.

30 Prior to any final determination, assessment, or order under this
31 section, the local board of education shall afford the business an
32 opportunity for a hearing on the reasons for the imposition of the
33 penalties set forth in subsection a., b., or c. of this section.

34 (cf: P.L.1988, c.37, s.11)

35
36 16. Section 7 of P.L.2009, c.307 (C.24:6I-7) is amended to read
37 as follows:

38 7. a. (1) The commission shall accept applications from entities
39 for permits to operate as medical cannabis cultivators, medical
40 cannabis manufacturers, and medical cannabis dispensaries. For the
41 purposes of this section, the term "permit" shall be deemed to
42 include a conditional permit issued pursuant to subsection d. of
43 section 11 of P.L.2019, c.153 (C.24:6I-7.1) and any permit issued to
44 a microbusiness pursuant to subsection e. of section 11 of P.L.2019,
45 c.153 (C.24:6I-7.1).

1 (2) (a) For a period of 18 months after the effective date of
2 P.L.2019, c.153 (C.24:6I-5.1 et al.):

3 (i) no applicant may concurrently hold more than one permit
4 issued by the commission pursuant to this section, regardless of
5 type; and

6 (ii) there shall be no more than 28 active medical cannabis
7 cultivator permits, including medical cannabis cultivator permits
8 deemed to be held by alternative treatment centers issued a permit
9 prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) and
10 medical cannabis cultivator permits deemed to be held by
11 alternative treatment centers issued a permit subsequent to the
12 effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an
13 application submitted prior to the effective date of P.L.2019, c.153
14 (C.24:6I-5.1 et al.); provided that medical cannabis cultivator
15 permits issued to microbusinesses pursuant to subsection e. of
16 section 11 of P.L.2019, c.153 (C.24:6I-7.1) shall not count toward
17 this limit.

18 (b) Commencing 18 months after the effective date of P.L.2019,
19 c.153 (C.24:6I-5.1 et al.), a permit holder shall be authorized to
20 concurrently hold a medical cannabis cultivator permit, a medical
21 cannabis manufacturer permit, and a medical cannabis dispensary
22 permit, provided that no permit holder shall be authorized to
23 concurrently hold more than one permit of each type. The permit
24 holder may submit an application for a permit of any type that the
25 permit holder does not currently hold prior to the expiration of the
26 18-month period described in subparagraph (a) of this paragraph,
27 provided that no additional permit shall be awarded to the permit
28 holder during the 18-month period.

29 (c) (i) The provisions of subparagraph (a) of this paragraph shall
30 not apply to any alternative treatment center that was issued a
31 permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et
32 al.), to any alternative treatment center that was issued a permit
33 after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.)
34 pursuant to an application submitted prior to the effective date of
35 P.L.2019, c.153 (C.24:6I-5.1 et al.), to one of the four alternative
36 treatment centers issued a permit pursuant to an application
37 submitted after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et
38 al.) pursuant to a request for applications published in the New
39 Jersey Register prior to the effective date of P.L.2019, c.153
40 (C.24:6I-5.1 et al.) that are expressly exempt from the provisions of
41 subparagraph (i) of subparagraph (a) of this paragraph, or to one
42 of the three alternative treatment centers issued a permit pursuant to
43 section 11 of P.L.2019, c.153 (C.24:6I-7.1) that are expressly
44 exempt from the provisions of subparagraph (i) of subparagraph
45 (a) of this paragraph, which alternative treatment centers shall be
46 deemed to concurrently hold a medical cannabis cultivator permit, a

1 medical cannabis manufacturer permit, and a medical cannabis
2 dispensary permit, and shall be authorized to engage in any conduct
3 authorized pursuant to those permits in relation to the cultivation,
4 manufacturing, and dispensing of medical cannabis.

5 (ii) In addition, each of the alternative treatment centers
6 described in subsubparagraph (i) of this subparagraph, to which the
7 provisions of subparagraph (a) of this paragraph shall not apply,
8 shall, upon the adoption of the initial rules and regulations by the
9 commission pursuant to subparagraph (a) of paragraph (1) of
10 subsection d. of section 6 of P.L.2021, c.16 (C.24:6I-34), be
11 deemed to either concurrently hold a Class 1 Cannabis Cultivator
12 license, a Class 2 Cannabis Manufacturer License, a Class 5
13 Cannabis Retailer license, plus an additional Class 5 Cannabis
14 Retailer license for each satellite dispensary authorized and
15 established by the alternative treatment center pursuant to
16 subparagraph (d) of this paragraph, and a Class 6 Cannabis Delivery
17 license, or hold a Class 3 Cannabis Wholesaler license, and may
18 also be deemed to hold a Class 4 Cannabis Distributor license. Any
19 alternative treatment center deemed to hold one or more licenses as
20 described in this subsubparagraph may begin to operate as any
21 authorized class of cannabis establishment, or establishment and
22 delivery service, or as a cannabis wholesaler and distributor, upon
23 receipt of written approval from the municipality in which the
24 proposed establishment or delivery service, or distributor is to be
25 located and obtaining an initial license or licenses, as applicable,
26 issued by the commission pursuant to paragraph (3) of subsection a.
27 of section 33 of P.L.2021, c.16 (C.24:6I-46).

28 (d) (i) No entity may be issued or concurrently hold more than
29 one medical cannabis cultivator permit, one medical cannabis
30 manufacturer permit, or one medical cannabis dispensary permit at
31 one time. An alternative treatment center which has been issued a
32 permit to dispense medical cannabis from a medical cannabis
33 dispensary shall be authorized to maintain up to two satellite
34 dispensaries. A medical cannabis dispensary seeking to establish a
35 satellite dispensary location shall obtain commission approval in
36 accordance with P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2021,
37 c.16 (C.24:6I-31 et al.) and, upon commission approval, shall be
38 authorized to establish and maintain up to two satellite dispensary
39 locations.

40 (ii) Notwithstanding the provisions of subsubparagraph (i) of
41 this subparagraph, an investor, investor group, or fund that provides
42 significant financial or technical assistance or the significant use of
43 intellectual property, or a combination thereof, to an applicant for a
44 medical cannabis dispensary permit, which applicant has been
45 certified as a minority business pursuant to P.L.1986, c.195
46 (C.52:27H-21.18 et seq.), a minority and women's business

1 pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.), a women's
2 business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.), or is
3 a disabled-veterans' business, as defined in section 2 of P.L.2015,
4 c.116 (C.52:32-31.2), may own up to a 35 percent interest in up to
5 seven entities that have been issued a medical cannabis dispensary
6 permit, provided that each such medical cannabis dispensary is a
7 certified minority, minority and women's, or women's business or a
8 disabled-veterans' business, and the terms of the agreement to
9 provide significant financial or technical assistance or the
10 significant use of intellectual property, or a combination thereof,
11 whether provided in the form of equity, a loan, or otherwise,
12 including interest rates, returns, and fees, are commercially
13 reasonable based on the terms generally provided to comparable
14 businesses. The terms of the agreement for the provision of
15 significant financial or technical assistance or the significant use of
16 intellectual property, or a combination thereof, may include
17 performance, quality, and other requirements as a condition of
18 providing the financial or technical assistance or use of intellectual
19 property. An applicant for a medical cannabis dispensary permit
20 that has or will receive significant financial or technical assistance
21 or the significant use of intellectual property under this
22 subsubparagraph shall include with the permit application materials
23 submitted to the commission a copy of the agreement to provide
24 significant financial or technical assistance or significant use of
25 intellectual property, or a combination thereof, which agreement
26 shall be subject to review by the commission as provided in
27 subsection f. of section 11 of P.L.2019, c.153 (C.24:6I-7.1).

28 An applicant for a medical cannabis dispensary permit that
29 receives significant financial or technical assistance or the
30 significant use of intellectual property under this subsubparagraph
31 shall pay back to the investor, investor group, or fund the full value
32 of the financial or technical assistance or intellectual property
33 provided under the agreement, plus any applicable interest and fees,
34 in a period not less than five years after the date of the agreement if
35 the full value of the assistance or property is less than \$100,000, in
36 a period not less than seven years after the date of the agreement if
37 the full value of the assistance or property is between \$100,001 and
38 \$250,000, in a period not less than 10 years after the date of
39 agreement if the full value of the assistance or property is between
40 \$250,001 and \$500,000, and, subject to any terms and conditions
41 imposed by a lender, in a period not less than 10 years after the date
42 of the agreement if the full value of the assistance or property is
43 greater than \$500,000. An investor, investor group, or fund that has
44 acquired an ownership interest in one or more entities that have
45 been issued a medical cannabis dispensary permit as authorized
46 under this subsubparagraph may maintain the ownership interest

1 after the date the full value of the financial or technical assistance
2 or use of intellectual property provided under the agreement, plus
3 interest and fees, has been repaid by the applicant that received the
4 assistance or use of intellectual property.

5 In no case may the controlling interest in the entity that holds a
6 medical cannabis dispensary permit in which an investor, investor
7 group, or fund owns an interest as authorized under this
8 subsubparagraph revert to the investor, investor group, or fund in
9 the event of a default or failure by the certified minority, minority
10 and women's, or women's business or disabled-veterans' business,
11 as applicable, and any such controlling interest may only be
12 transferred to a certified minority, minority and women's, or
13 women's business or a disabled-veterans' business.

14 An entity issued a medical cannabis cultivator, medical cannabis
15 manufacturer, or medical cannabis dispensary permit, or an
16 individual associated with the ownership or management of such
17 entity, may invest in or participate in an investor group or a fund
18 that meets the requirements of this subsubparagraph with respect to
19 a Class 5 cannabis retailer license or an alternative treatment center
20 permit.

21 (e) No entity issued a medical cannabis cultivator, medical
22 cannabis manufacturer, or medical cannabis dispensary permit may
23 concurrently hold a clinical registrant permit issued pursuant to
24 section 13 of P.L.2019, c.153 (C.24:6I-7.3), and no entity issued a
25 clinical registrant permit pursuant to section 13 of P.L.2019, c.153
26 (C.24:6I-7.3) may concurrently hold a medical cannabis cultivator
27 permit, a medical cannabis manufacturer permit, or a medical
28 cannabis dispensary permit.

29 (f) Any medical cannabis dispensary permit holder may be
30 approved by the commission to operate a cannabis consumption
31 area, provided that the permit holder otherwise meets the
32 requirements of section 28 of P.L.2019, c.153 (C.24:6I-21).

33 (g) An alternative treatment center that was issued a permit prior
34 to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), that was
35 issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-
36 5.1 et al.) pursuant to an application submitted pursuant to a request
37 for applications published in the New Jersey Register prior to the
38 effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), or that was
39 issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-
40 5.1 et al.) pursuant to an application submitted prior to the effective
41 date of P.L.2019, c.153 (C.24:6I-5.1 et al.), shall be required to
42 submit an attestation signed by a bona fide labor organization
43 stating that the alternative treatment center has entered into a labor
44 peace agreement with such bona fide labor organization no later
45 than 100 days after the effective date of P.L.2019, c.153 (C.24:6I-
46 5.1 et al.) or no later than 100 days after the date the alternative

1 treatment center first opens, whichever date is later. The
2 maintenance of a labor peace agreement with a bona fide labor
3 organization shall be an ongoing material condition of maintaining
4 the alternative treatment center's permit. The failure to submit an
5 attestation as required pursuant to this subparagraph within 100
6 days after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.)
7 or within 100 days after the alternative treatment center first opens,
8 as applicable, shall result in the suspension or revocation of the
9 alternative treatment center's permit, provided that the commission
10 may grant an extension to this deadline to the alternative treatment
11 center based upon extenuating circumstances or for good cause
12 shown.

13 As used in this subparagraph, "bona fide labor organization"
14 means a labor organization of any kind or employee representation
15 committee, group, or association, in which employees participate
16 and which exists and is constituted for the purpose, in whole or in
17 part, of collective bargaining or otherwise dealing with medical or
18 personal use cannabis employers concerning grievances, labor
19 disputes, terms or conditions of employment, including wages and
20 rates of pay, or other mutual aid or protection in connection with
21 employment, and may be characterized by: it being a party to one or
22 more executed collective bargaining agreements with medical or
23 personal use cannabis employers, in this State or another state; it
24 having a written constitution or bylaws in the three immediately
25 preceding years; it filing the annual financial report required of
26 labor organizations pursuant to subsection (b) of 29 U.S.C. s.431, or
27 it having at least one audited financial report in the three
28 immediately preceding years; it being affiliated with any regional or
29 national association of unions, including but not limited to state and
30 federal labor councils; or it being a member of a national labor
31 organization that has at least 500 general members in a majority of
32 the 50 states of the United States.

33 (h) An alternative treatment center that was issued a permit prior
34 to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), that was
35 issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-
36 5.1 et al.) pursuant to an application submitted pursuant to a request
37 for applications published in the New Jersey Register prior to the
38 effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), or that was
39 issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-
40 5.1 et al.) pursuant to an application submitted prior to the effective
41 date of P.L.2019, c.153 (C.24:6I-5.1 et al.), shall be permitted to
42 cultivate from up to two physical locations, provided that the
43 alternative treatment center's combined mature cannabis plant grow
44 canopy between both locations shall not exceed 150,000 square feet
45 of bloom space or the square footage of canopy permitted under the
46 largest tier in the tiered system adopted by the commission pursuant

1 to paragraph (2) of subsection b. of section 21 of P.L.2021, c.16
2 (C.24:6I-38).

3 (3) The commission shall seek to ensure the availability of a
4 sufficient number of medical cannabis cultivators, medical cannabis
5 manufacturers, and medical cannabis dispensaries throughout the
6 State, pursuant to need, including at least two each in the northern,
7 central, and southern regions of the State. Medical cannabis
8 cultivators, medical cannabis manufacturers, and medical cannabis
9 dispensaries issued permits pursuant to this section may be
10 nonprofit or for-profit entities.

11 (4) The commission shall periodically evaluate whether the
12 number of medical cannabis cultivator, medical cannabis
13 manufacturer, and medical cannabis dispensary permits issued are
14 sufficient to meet the needs of qualifying patients in the State, and
15 shall accept new applications and issue such additional permits as
16 shall be necessary to meet those needs. The types of permits
17 requested and issued, and the locations of any additional permits
18 that are authorized, shall be in the discretion of the commission
19 based on the needs of qualifying patients in the State.

20 (5) (a) A medical cannabis cultivator shall be authorized to:
21 acquire a reasonable initial and ongoing inventory, as determined
22 by the commission, of cannabis seeds or seedlings and
23 paraphernalia; possess, cultivate, plant, grow, harvest, and package
24 medical cannabis, including prerolled forms, for any authorized
25 purpose, including, but not limited to, research purposes; and
26 deliver, transfer, transport, distribute, supply, or sell medical
27 cannabis and related supplies to any medical cannabis cultivator,
28 medical cannabis manufacturer, medical cannabis dispensary, or
29 clinical registrant in the State. In no case shall a medical cannabis
30 cultivator operate or be located on land that is valued, assessed or
31 taxed as an agricultural or horticultural use pursuant to the
32 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
33 seq.).

34 (b) A medical cannabis manufacturer shall be authorized to:
35 purchase or acquire medical cannabis from any medical cannabis
36 cultivator, medical cannabis manufacturer, or clinical registrant in
37 the State; possess and utilize medical cannabis in the manufacture
38 and creation of medical cannabis products; and deliver, transfer,
39 transport, supply, or sell medical cannabis products and related
40 supplies to any medical cannabis manufacturer, medical cannabis
41 dispensary, or clinical registrant in the State.

42 (c) A medical cannabis dispensary shall be authorized to:
43 purchase or acquire medical cannabis from any medical cannabis
44 cultivator, medical cannabis dispensary, or clinical registrant in the
45 State and medical cannabis products and related supplies from any
46 medical cannabis manufacturer, medical cannabis dispensary, or

1 clinical registrant in the State; purchase or acquire paraphernalia
2 from any legal source; and distribute, supply, sell, or dispense
3 medical cannabis, medical cannabis products, paraphernalia, and
4 related supplies to qualifying patients or their designated or
5 institutional caregivers who are registered with the commission
6 pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4). A medical
7 cannabis dispensary may furnish medical cannabis, medical
8 cannabis products, paraphernalia, and related supplies to a medical
9 cannabis handler for delivery to a registered qualifying patient,
10 designated caregiver, or institutional caregiver consistent with the
11 requirements of subsection i. of section 27 of P.L.2019, c.153
12 (C.24:6I-20).

13 (6) A medical cannabis cultivator shall not be limited in the
14 number of strains of medical cannabis cultivated, and a medical
15 cannabis manufacturer shall not be limited in the number or type of
16 medical cannabis products manufactured or created. A medical
17 cannabis manufacturer may package, and a medical cannabis
18 dispensary may directly dispense medical cannabis and medical
19 cannabis products to qualifying patients and their designated and
20 institutional caregivers in any authorized form. Authorized forms
21 shall include dried form, oral lozenges, topical formulations,
22 transdermal form, sublingual form, tincture form, or edible form, or
23 any other form as authorized by the commission. Edible form shall
24 include pills, tablets, capsules, drops or syrups, oils, chewable
25 forms, and any other form as authorized by the commission, except
26 that the edible forms made available to minor patients shall be
27 limited to forms that are medically appropriate for children,
28 including pills, tablets, capsules, chewable forms, and drops, oils,
29 syrups, and other liquids.

30 (7) Nonprofit medical cannabis cultivators, medical cannabis
31 manufacturers, and medical cannabis dispensaries need not be
32 recognized as a 501(c)(3) organization by the federal Internal
33 Revenue Service.

34 b. The commission shall require that an applicant provide such
35 information as the commission determines to be necessary pursuant
36 to regulations adopted pursuant to P.L.2009, c.307 (C.24:6I-1 et
37 al.).

38 c. A person who has been convicted of a crime of the first,
39 second, or third degree under New Jersey law or of a crime
40 involving any controlled dangerous substance or controlled
41 substance analog as set forth in chapter 35 of Title 2C of the New
42 Jersey Statutes except paragraph (11) or (12) of subsection b. of
43 N.J.S.2C:35-5, or paragraph (3) or (4) of subsection a. of
44 N.J.S.2C:35-10, or any similar law of the United States or any other
45 state shall not be issued a permit to operate as a medical cannabis
46 cultivator, medical cannabis manufacturer, medical cannabis

1 dispensary, or clinical registrant or be a director, officer, or
2 employee of a medical cannabis cultivator, medical cannabis
3 manufacturer, medical cannabis dispensary, or clinical registrant,
4 unless such conviction occurred after the effective date of P.L.2009,
5 c.307 (C.24:6I-1 et al.) and was for a violation of federal law
6 relating to possession or sale of cannabis for conduct that is
7 authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015,
8 c.158 (C.18A:40-12.22 et al.).

9 d. (1) The commission shall require each applicant seeking a
10 permit to operate as, to be a director, officer, or employee of, or to
11 be a significantly involved person in, a medical cannabis cultivator,
12 medical cannabis manufacturer, medical cannabis dispensary, or
13 clinical registrant to undergo a criminal history record background
14 check.

15 Any individual seeking to become a director, officer, or
16 employee of a medical cannabis cultivator, medical cannabis
17 manufacturer, medical cannabis dispensary, or clinical registrant,
18 after issuance of an initial permit shall notify the commission and
19 shall complete a criminal history record background check and
20 provide all information as may be required by the commission as a
21 condition of assuming a position as director, officer, or employee of
22 the permitted entity. An individual who secures an investment
23 interest or gains the authority to make controlling decisions in a
24 permitted entity that makes the individual a significantly involved
25 person shall notify the commission, complete a criminal history
26 record background check, and provide all information as may be
27 required by the commission no later than 30 days after the date the
28 individual becomes a significantly involved person, or any permit
29 issued to the individual or group of which the significantly involved
30 person is a member shall be revoked and the individual or group
31 shall be deemed ineligible to hold any ownership or investment
32 interest in a medical cannabis cultivator, medical cannabis
33 manufacturer, medical cannabis dispensary, or clinical registrant for
34 a period of at least two years, commencing from the date of
35 revocation, and for such additional period of time as the
36 commission deems appropriate, based on the duration of the
37 nondisclosure, the size of the individual's or group's investment
38 interest in the permitted entity, the amount of profits, revenue, or
39 income realized by the individual or group from the permitted entity
40 during the period of nondisclosure, and whether the individual had a
41 disqualifying conviction or would otherwise have been deemed
42 ineligible to be a significantly involved person in a medical
43 cannabis cultivator, medical cannabis manufacturer, medical
44 cannabis dispensary, or clinical registrant.

45 For purposes of this section, the term "applicant" shall include
46 any owner, director, officer, or employee of, and any significantly

1 involved person in, a medical cannabis cultivator, medical cannabis
2 manufacturer, medical cannabis dispensary, or clinical registrant.
3 The commission is authorized to exchange fingerprint data with and
4 receive criminal history record background information from the
5 Division of State Police and the Federal Bureau of Investigation
6 consistent with the provisions of applicable State and federal laws,
7 rules, and regulations. The Division of State Police shall forward
8 criminal history record background information to the commission
9 in a timely manner when requested pursuant to the provisions of
10 this section.

11 An applicant who is required to undergo a criminal history
12 record background check pursuant to this section shall submit to
13 being fingerprinted in accordance with applicable State and federal
14 laws, rules, and regulations. No check of criminal history record
15 background information shall be performed pursuant to this section
16 unless the applicant has furnished the applicant's written consent to
17 that check. An applicant who is required to undergo a criminal
18 history record background check pursuant to this section who
19 refuses to consent to, or cooperate in, the securing of a check of
20 criminal history record background information shall not be
21 considered for a permit to operate, or authorization to be employed
22 at or to be a significantly involved person in, a medical cannabis
23 cultivator, medical cannabis manufacturer, medical cannabis
24 dispensary, or clinical registrant. An applicant shall bear the cost
25 for the criminal history record background check, including all
26 costs of administering and processing the check.

27 (2) The commission shall not approve an applicant for a permit
28 to operate, or authorization to be employed at or to be a
29 significantly involved person in, a medical cannabis cultivator,
30 medical cannabis manufacturer, medical cannabis dispensary, or
31 clinical registrant if the criminal history record background
32 information of the applicant reveals a disqualifying conviction as
33 set forth in subsection c. of this section.

34 (3) Upon receipt of the criminal history record background
35 information from the Division of State Police and the Federal
36 Bureau of Investigation, the commission shall provide written
37 notification to the applicant of the applicant's qualification or
38 disqualification for a permit to operate or be a director, officer, or
39 employee of, or a significantly involved person in, a medical
40 cannabis cultivator, medical cannabis manufacturer, medical
41 cannabis dispensary, or clinical registrant.

42 If the applicant is disqualified because of a disqualifying
43 conviction pursuant to the provisions of this section, the conviction
44 that constitutes the basis for the disqualification shall be identified
45 in the written notice.

1 (4) The Division of State Police shall promptly notify the
2 commission in the event that an individual who was the subject of a
3 criminal history record background check conducted pursuant to
4 this section is convicted of a crime or offense in this State after the
5 date the background check was performed. Upon receipt of that
6 notification, the commission shall make a determination regarding
7 the continued eligibility to operate or be a director, officer, or
8 employee of, or a significantly involved person in, a medical
9 cannabis cultivator, medical cannabis manufacturer, medical
10 cannabis dispensary, or clinical registrant.

11 (5) Notwithstanding the provisions of subsection c. of this
12 section to the contrary, the commission may offer provisional
13 authority for an applicant to be an owner, director, officer, or
14 employee of, or a significantly involved person in, a medical
15 cannabis cultivator, medical cannabis manufacturer, medical
16 cannabis dispensary, or clinical registrant for a period not to exceed
17 three months if the applicant submits to the commission a sworn
18 statement attesting that the person has not been convicted of any
19 disqualifying conviction pursuant to this section.

20 (6) Notwithstanding the provisions of subsection c. of this
21 section to the contrary, no applicant to be an owner, director,
22 officer, or employee of, or a significantly involved person in, a
23 medical cannabis cultivator, medical cannabis manufacturer,
24 medical cannabis dispensary, or clinical registrant shall be
25 disqualified on the basis of any conviction disclosed by a criminal
26 history record background check conducted pursuant to this section
27 if the individual has affirmatively demonstrated to the commission
28 clear and convincing evidence of rehabilitation. In determining
29 whether clear and convincing evidence of rehabilitation has been
30 demonstrated, the following factors shall be considered:

31 (a) the nature and responsibility of the position which the
32 convicted individual would hold, has held, or currently holds;

33 (b) the nature and seriousness of the crime or offense;

34 (c) the circumstances under which the crime or offense
35 occurred;

36 (d) the date of the crime or offense;

37 (e) the age of the individual when the crime or offense was
38 committed;

39 (f) whether the crime or offense was an isolated or repeated
40 incident;

41 (g) any social conditions which may have contributed to the
42 commission of the crime or offense; and

43 (h) any evidence of rehabilitation, including good conduct in
44 prison or in the community, counseling or psychiatric treatment
45 received, acquisition of additional academic or vocational
46 schooling, successful participation in correctional work-release

1 programs, or the recommendation of those who have had the
2 individual under their supervision.

3 e. The commission shall issue a permit to operate or be an
4 owner, director, officer, or employee of, or a significantly involved
5 person in, a medical cannabis cultivator, medical cannabis
6 manufacturer, or medical cannabis dispensary if the commission
7 finds that issuing such a permit would be consistent with the
8 purposes of P.L.2009, c.307 (C.24:6I-1 et al.) and the requirements
9 of this section and section 11 of P.L.2019, c.153 (C.24:6I-7.1) are
10 met. The denial of an application shall be considered a final agency
11 decision, subject to review by the Appellate Division of the
12 Superior Court. A permit to operate a medical cannabis cultivator,
13 medical cannabis manufacturer, or medical cannabis dispensary
14 issued on or after the effective date of P.L.2019, c.153 (C.24:6I-5.1
15 et al.) shall be valid for one year and shall be renewable annually.

16 f. A person who has been issued a permit pursuant to this
17 section or a clinical registrant permit pursuant to section 13 of
18 P.L.2019, c.153 (C.24:6I-7.3) shall display the permit at the front
19 entrance to the premises of the permitted facility at all times when
20 the facility is engaged in conduct authorized pursuant to P.L.2009,
21 c.307 (C.24:6I-1 et al.) involving medical cannabis, including, but
22 not limited to, the cultivating, manufacturing, or dispensing of
23 medical cannabis.

24 g. A medical cannabis cultivator, medical cannabis
25 manufacturer, medical cannabis dispensary, or clinical registrant
26 shall report any change in information to the commission not later
27 than 10 days after such change, or the permit shall be deemed null
28 and void.

29 h. Each medical cannabis dispensary and clinical registrant
30 shall maintain and make available on its Internet website, if any, a
31 standard price list that shall apply to all medical cannabis, medical
32 cannabis products, and related supplies and paraphernalia sold or
33 dispensed by the medical cannabis dispensary or clinical registrant,
34 which prices shall be reasonable and consistent with the actual costs
35 incurred by the medical cannabis dispensary or clinical registrant in
36 connection with acquiring and selling, transferring, or dispensing
37 the medical cannabis or medical cannabis product and related
38 supplies and paraphernalia. The prices charged by the medical
39 cannabis dispensary or clinical registrant shall not deviate from the
40 prices indicated on the entity's current price list, provided that a
41 price list maintained by a medical cannabis dispensary or clinical
42 registrant may allow for medical cannabis to be made available at a
43 reduced price or without charge to qualifying patients who have a
44 demonstrated financial hardship, as that term shall be defined by the
45 commission by regulation. A price list required pursuant to this
46 subsection may be revised no more than once per month, and each

1 medical cannabis dispensary and clinical registrant shall be
2 responsible for ensuring that the commission has a copy of the
3 facility's current price list. A medical cannabis dispensary or
4 clinical registrant shall be liable to a civil penalty of \$1,000 for
5 each sale that occurs at a price that deviates from the entity's current
6 price list, and to a civil penalty of \$10,000 for each week during
7 which the entity's current price list is not on file with the
8 commission. Any civil penalties collected by the commission
9 pursuant to this section shall be deposited in the "Cannabis
10 Regulatory, Enforcement Assistance, and Marketplace
11 Modernization Fund" established under section 41 of P.L.2021, c.16
12 (C.24:6I-50), and used by the commission for the purposes of
13 administering the State medical cannabis program.

14 i. The commission shall adopt regulations to:

15 (1) require such written documentation of each delivery or
16 dispensation of cannabis to, and pickup of cannabis for, a registered
17 qualifying patient, including the date and amount dispensed, and, in
18 the case of delivery, the date and times the delivery commenced and
19 was completed, the address where the medical cannabis was
20 delivered, the name of the patient or caregiver to whom the medical
21 cannabis was delivered, and the name, handler certification number,
22 and delivery certification number of the medical cannabis handler
23 who performed the delivery, to be maintained in the records of the
24 medical cannabis dispensary or clinical registrant, as the
25 commission determines necessary to ensure effective
26 documentation of the operations of each medical cannabis
27 dispensary or clinical registrant;

28 (2) monitor, oversee, and investigate all activities performed by
29 medical cannabis cultivators, medical cannabis manufacturers,
30 medical cannabis dispensaries, and clinical registrants;

31 (3) ensure adequate security of all facilities 24 hours per day
32 and security of all delivery methods to registered qualifying
33 patients; and

34 (4) establish thresholds for administrative action to be taken
35 against a medical cannabis cultivator, medical cannabis
36 manufacturer, medical cannabis dispensary, or clinical registrant
37 and its employees, officers, investors, directors, or governing board
38 pursuant to subsection m. of this section, including, but not limited
39 to, specific penalties or disciplinary actions that may be imposed in
40 a summary proceeding.

41 j. (1) Each medical cannabis cultivator, medical cannabis
42 manufacturer, medical cannabis dispensary, and clinical registrant
43 shall require the owners, directors, officers, and employees at the
44 permitted facility to complete at least eight hours of ongoing
45 training each calendar year. The training shall be tailored to the
46 roles and responsibilities of the individual's job function, and shall

1 include training on confidentiality and such other topics as shall be
2 required by the commission.

3 (2) Each medical cannabis dispensary and clinical registrant
4 shall consider whether to make interpreter services available to the
5 population served, including for individuals with a visual or hearing
6 impairment. The commission shall provide assistance to any
7 medical cannabis dispensary or clinical registrant that seeks to
8 provide such services in locating appropriate interpreter resources.
9 A medical cannabis dispensary or clinical registrant shall assume
10 the cost of providing interpreter services pursuant to this
11 subsection.

12 k. (1) The first six alternative treatment centers issued permits
13 following the effective date of P.L.2009, c.307 (C.24:6I-1 et al.)
14 shall be authorized to sell or transfer such permit and other assets to
15 a for-profit entity, provided that: the sale or transfer is approved by
16 the commission; each owner, director, officer, and employee of, and
17 significantly involved person in, the entity seeking to purchase or
18 receive the transfer of the permit, undergoes a criminal history
19 record background check pursuant to subsection d. of this section,
20 provided that nothing in this subsection shall be construed to
21 require any individual to undergo a criminal history record
22 background check if the individual would otherwise be exempt from
23 undergoing a criminal history record background check pursuant to
24 subsection d. of this section; the commission finds that the sale or
25 transfer of the permit would be consistent with the purposes of
26 P.L.2009, c.307 (C.24:6I-1 et al.); and no such sale or transfer shall
27 be authorized more than one year after the effective date of
28 P.L.2019, c.153 (C.24:6I-5.1 et al.). The sale or transfer of a permit
29 pursuant to this subsection shall not be subject to the requirements
30 of the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et
31 seq., provided that, prior to or at the time of the sale or transfer, all
32 debts and obligations of the nonprofit entity are either paid in full or
33 assumed by the for-profit entity purchasing or acquiring the permit,
34 or a reserve fund is established for the purpose of paying in full the
35 debts and obligations of the nonprofit entity, and the for-profit
36 entity pays the full value of all assets held by the nonprofit entity,
37 as reflected on the nonprofit entity's balance sheet, in addition to the
38 agreed-upon price for the sale or transfer of the entity's alternative
39 treatment center permit. Until such time as the members of the
40 Cannabis Regulatory Commission are appointed and the
41 commission first organizes, the Department of Health shall have
42 full authority to approve a sale or transfer pursuant to this
43 paragraph.

44 (2) The sale or transfer of any interest of five percent or more in
45 a medical cannabis cultivator, medical cannabis manufacturer,
46 medical cannabis dispensary, or clinical registrant permit shall be

1 subject to approval by the commission and conditioned on the entity
2 that is purchasing or receiving transfer of the interest in the medical
3 cannabis cultivator, medical cannabis manufacturer, medical
4 cannabis dispensary, or clinical registrant permit completing a
5 criminal history record background check pursuant to the
6 requirements of subsection d. of this section.

7 1. No employee of any department, division, agency, board, or
8 other State, county, or local government entity involved in the
9 process of reviewing, processing, or making determinations with
10 regard to medical cannabis cultivator, medical cannabis
11 manufacturer, medical cannabis dispensary, or clinical registrant
12 permit applications shall have any direct or indirect financial
13 interest in the cultivating, manufacturing, or dispensing of medical
14 cannabis or related paraphernalia, or otherwise receive anything of
15 value from an applicant for a medical cannabis cultivator, medical
16 cannabis manufacturer, medical cannabis dispensary, or clinical
17 registrant permit in exchange for reviewing, processing, or making
18 any recommendations with respect to a permit application.

19 m. In the event that a medical cannabis cultivator, medical
20 cannabis manufacturer, medical cannabis dispensary, or clinical
21 registrant fails to comply with any requirements set forth in
22 P.L.2009, c.307 (C.24:6I-1 et al.) or any related law or regulation,
23 the commission may invoke penalties or take administrative action
24 against the medical cannabis cultivator, medical cannabis
25 manufacturer, medical cannabis dispensary, or clinical registrant
26 and its employees, officers, investors, directors, or governing board,
27 including, but not limited to, assessing fines, referring matters to
28 another State agency, and suspending or terminating any permit
29 held by the medical cannabis cultivator, medical cannabis
30 manufacturer, medical cannabis dispensary, or clinical registrant.
31 Any penalties imposed or administrative actions taken by the
32 commission pursuant to this subsection may be imposed in a
33 summary proceeding.

34 (cf: P.L.2025, c.86, s.1)

35
36 17. Section 12 of P.L.2019, c.153 (C.24:6I-7.2) is amended to
37 read as follows:

38 12. a. Each application for a medical cannabis cultivator permit,
39 medical cannabis manufacturer permit, and medical cannabis
40 dispensary permit, and each application for annual renewal of such
41 permit, including permit and renewal applications for
42 microbusinesses that meet the requirements of subsection e. of
43 section 11 of P.L.2019, c.153 (C.24:6I-7.1), shall be submitted to
44 the commission. A full, separate application shall be required for
45 each initial permit requested by the applicant and for each location
46 at which an applicant seeks to operate, regardless of whether the

1 applicant was previously issued a medical cannabis cultivator,
2 medical cannabis manufacturer, medical cannabis dispensary, or
3 clinical registrant permit, and regardless of whether the applicant
4 currently holds a medical cannabis cultivator, medical cannabis
5 manufacturer, or medical cannabis dispensary permit. Renewal
6 applications shall be submitted to the commission on a form and in
7 a manner as shall be specified by the commission no later than 90
8 days before the date the current permit will expire.

9 b. An initial permit application shall be evaluated according to
10 criteria to be developed by the commission. The commission shall
11 determine the point values to be assigned to each criterion, which
12 shall include bonus points for applicants who are residents of New
13 Jersey.

14 c. The criteria to be developed by the commission pursuant to
15 subsection b. of this section shall include, in addition to the criteria
16 set forth in subsections d. and e. of this section and any other
17 criteria developed by the commission, an analysis of the applicant's
18 operating plan, excluding safety and security criteria, which shall
19 include the following:

20 (1) In the case of an applicant for a medical cannabis cultivator
21 permit, the operating plan summary shall include a written
22 description concerning the applicant's qualifications for, experience
23 in, and knowledge of each of the following topics:

- 24 (a) State-authorized cultivation of medical cannabis;
- 25 (b) conventional horticulture or agriculture, familiarity with
26 good agricultural practices, and any relevant certifications or
27 degrees;
- 28 (c) quality control and quality assurance;
- 29 (d) recall plans;
- 30 (e) packaging and labeling;
- 31 (f) inventory control and tracking software or systems for the
32 production of medical cannabis;
- 33 (g) analytical chemistry and testing of medical cannabis;
- 34 (h) water management practices;
- 35 (i) odor mitigation practices;
- 36 (j) onsite and offsite recordkeeping;
- 37 (k) strain variety and plant genetics;
- 38 (l) pest control and disease management practices, including
39 plans for the use of pesticides, nutrients, and additives;
- 40 (m) waste disposal plans; and
- 41 (n) compliance with applicable laws and regulations.

42 (2) In the case of an applicant for a medical cannabis
43 manufacturer permit, the operating plan summary shall include a
44 written description concerning the applicant's qualifications for,
45 experience in, and knowledge of each of the following topics:

- 1 (a) State-authorized manufacture and creation of cannabis
- 2 products using appropriate extraction methods, including intended
- 3 use and sourcing of extraction equipment and associated solvents or
- 4 intended methods and equipment for non-solvent extraction;
- 5 (b) pharmaceutical manufacturing, good manufacturing
- 6 practices, and good laboratory practices;
- 7 (c) quality control and quality assurance;
- 8 (d) recall plans;
- 9 (e) packaging and labeling;
- 10 (f) inventory control and tracking software or systems for the
- 11 production of medical cannabis;
- 12 (g) analytical chemistry and testing of medical cannabis and
- 13 medical cannabis products and formulations;
- 14 (h) water management practices;
- 15 (i) odor mitigation practices;
- 16 (j) onsite and offsite recordkeeping;
- 17 (k) a list of product formulations or products proposed to be
- 18 manufactured with estimated cannabinoid profiles, if known,
- 19 including varieties with high cannabidiol content;
- 20 (l) intended use and sourcing of all non-cannabis ingredients
- 21 used in the manufacture and creation of cannabis products,
- 22 including methods to verify or ensure the safety and integrity of
- 23 those ingredients and their potential to be or contain allergens;
- 24 (m) waste disposal plans; and
- 25 (n) compliance with applicable laws and regulations.
- 26 (3) In the case of an applicant for a medical cannabis dispensary
- 27 permit, the operating plan summary shall include a written
- 28 description concerning the applicant's qualifications for, experience
- 29 in, and knowledge of each of the following topics:
- 30 (a) State-authorized dispensation of medical cannabis to
- 31 qualifying patients;
- 32 (b) healthcare, medicine, and treatment of patients with
- 33 qualifying medical conditions;
- 34 (c) medical cannabis product evaluation procedures;
- 35 (d) recall plans;
- 36 (e) packaging and labeling;
- 37 (f) inventory control and point-of-sale software or systems for
- 38 the sale of medical cannabis;
- 39 (g) patient counseling procedures;
- 40 (h) the routes of administration, strains, varieties, and
- 41 cannabinoid profiles of medical cannabis and medical cannabis
- 42 products;
- 43 (i) odor mitigation practices;
- 44 (j) onsite and offsite recordkeeping;
- 45 (k) compliance with State and federal patient privacy rules;
- 46 (l) waste disposal plans; and

1 (m) compliance with applicable laws and regulations.

2 d. The criteria to be developed by the commission pursuant to
3 subsection b. of this section shall include, in addition to the criteria
4 set forth in subsections c. and e. of this section and any other
5 criteria developed by the commission, an analysis of the following
6 factors, if applicable:

7 (1) The applicant's environmental impact plan.

8 (2) A summary of the applicant's safety and security plans and
9 procedures, which shall include descriptions of the following:

10 (a) plans for the use of security personnel, including
11 contractors;

12 (b) the experience or qualifications of security personnel and
13 proposed contractors;

14 (c) security and surveillance features, including descriptions of
15 any alarm systems, video surveillance systems, and access and
16 visitor management systems, along with drawings identifying the
17 proposed locations for surveillance cameras and other security
18 features;

19 (d) plans for the storage of medical cannabis and medical
20 cannabis products, including any safes, vaults, and climate control
21 systems that will be utilized for this purpose;

22 (e) a diversion prevention plan;

23 (f) an emergency management plan;

24 (g) procedures for screening, monitoring, and performing
25 criminal history record background checks of employees;

26 (h) cybersecurity procedures, including, in the case of an
27 applicant for a medical cannabis dispensary permit, procedures for
28 collecting, processing, and storing patient data, and the applicant's
29 familiarity with State and federal privacy laws;

30 (i) workplace safety plans and the applicant's familiarity with
31 federal Occupational Safety and Health Administration regulations;

32 (j) the applicant's history of workers' compensation claims and
33 safety assessments;

34 (k) procedures for reporting adverse events; and

35 (l) a sanitation practices plan.

36 (3) A summary of the applicant's business experience, including
37 the following, if applicable:

38 (a) the applicant's experience operating businesses in highly-
39 regulated industries;

40 (b) the applicant's experience in operating alternative treatment
41 centers and related medical cannabis production and dispensation
42 entities under the laws of New Jersey or any other state or
43 jurisdiction within the United States; and

44 (c) the applicant's plan to comply with and mitigate the effects
45 of 26 U.S.C. s.280E on cannabis businesses, and for evidence that

1 the applicant is not in arrears with respect to any tax obligation to
2 the State.

3 In evaluating the experience described under subparagraphs (a),
4 (b), and (c) of this paragraph, the commission shall afford the
5 greatest weight to the experience of the applicant itself, controlling
6 owners, and entities with common ownership or control with the
7 applicant; followed by the experience of those with a 15 percent or
8 greater ownership interest in the applicant's organization; followed
9 by significantly involved persons in the applicant's organization;
10 followed by other officers, directors, and current and prospective
11 employees of the applicant who have a bona fide relationship with
12 the applicant's organization as of the date of the application.

13 (4) A description of the proposed location for the applicant's
14 site, including the following, if applicable:

15 (a) the proposed location, the surrounding area, and the
16 suitability or advantages of the proposed location, along with a
17 floor plan and optional renderings or architectural or engineering
18 plans;

19 (b) the submission of zoning approvals for the proposed
20 location, which shall consist of a letter or affidavit from appropriate
21 municipal officials that the location will conform to municipal
22 zoning requirements allowing for such activities related to the
23 cultivation, manufacturing, or dispensing of medical cannabis,
24 cannabis products, and related supplies as will be conducted at the
25 proposed facility; and

26 (c) the submission of proof of local support for the suitability of
27 the location, which may be demonstrated by a resolution adopted by
28 the municipality's governing body indicating that the intended
29 location is appropriately located or otherwise suitable for such
30 activities related to the cultivation, manufacturing, or dispensing of
31 medical cannabis, cannabis products, and related supplies as will be
32 conducted at the proposed facility.

33 Notwithstanding any other provision of this subsection, an
34 application shall be disqualified from consideration unless it
35 includes documentation demonstrating that the applicant will have
36 final control of the premises upon approval of the application,
37 including, but not limited to, a lease agreement, contract for sale,
38 title, deed, or similar documentation. In addition, if the applicant
39 will lease the premises, the application will be disqualified from
40 consideration unless it includes certification from the landlord that
41 the landlord is aware that the tenant's use of the premises will
42 involve activities related to the cultivation, manufacturing, or
43 dispensing of medical cannabis and medical cannabis products. An
44 application shall not be disqualified from consideration if the
45 application does not include the materials described in
46 subparagraph (b) or (c) of this paragraph.

1 (5) A community impact, social responsibility, and research
2 statement, which shall include, but shall not be limited to, the
3 following:

4 (a) a community impact plan summarizing how the applicant
5 intends to have a positive impact on the community in which the
6 proposed entity is to be located, which shall include an economic
7 impact plan, a description of outreach activities, and any financial
8 assistance or discount plans the applicant will provide to qualifying
9 patients and designated caregivers;

10 (b) a written description of the applicant's record of social
11 responsibility, philanthropy, and ties to the proposed host
12 community;

13 (c) a written description of any research the applicant has
14 conducted on the medical efficacy or adverse effects of cannabis
15 use and the applicant's participation in or support of cannabis-
16 related research and educational activities; and

17 (d) a written plan describing any research and development
18 regarding the medical efficacy or adverse effects of cannabis, and
19 any cannabis-related educational and outreach activities, which the
20 applicant intends to conduct if issued a permit by the commission.

21 In evaluating the information submitted pursuant to
22 subparagraphs (b) and (c) of this paragraph, the commission shall
23 afford the greatest weight to responses pertaining to the applicant
24 itself, controlling owners, and entities with common ownership or
25 control with the applicant; followed by responses pertaining to
26 those with a 15 percent or greater ownership interest in the
27 applicant's organization; followed by significantly involved persons
28 in the applicant's organization; followed by other officers, directors,
29 and current and prospective employees of the applicant who have a
30 bona fide relationship with the applicant's organization as of the
31 date of the application.

32 (6) A workforce development and job creation plan, which may
33 include information on the applicant's history of job creation and
34 planned job creation at the proposed facility; education, training,
35 and resources to be made available for employees; any relevant
36 certifications; and a diversity plan.

37 (7) A business and financial plan, which may include, but shall
38 not be limited to, the following:

39 (a) an executive summary of the applicant's business plan;

40 (b) a demonstration of the applicant's financial ability to
41 implement its business plan, which may include, but shall not be
42 limited to, bank statements, business and individual financial
43 statements, net worth statements, and debt and equity financing
44 statements; and

45 (c) a description of the applicant's plan to comply with guidance
46 pertaining to cannabis issued by the Financial Crimes Enforcement

1 Network under 31 U.S.C. s.5311 et seq., the federal "Bank Secrecy
2 Act", which may be demonstrated by submitting letters regarding
3 the applicant's banking history from banks or credit unions that
4 certify they are aware of the business activities of the applicant, or
5 entities with common ownership or control with the applicant, in
6 any state where the applicant has operated a business related to
7 medical cannabis. For the purposes of this subparagraph, the
8 commission shall consider only bank references involving accounts
9 in the name of the applicant or of an entity with common ownership
10 or control with the applicant. An applicant who does not submit the
11 information described in this subparagraph shall not be disqualified
12 from consideration.

13 (8) Whether any of the applicant's majority or controlling
14 owners were previously approved by the commission to serve as an
15 officer, director, principal, or key employee of an alternative
16 treatment center, or personal use cannabis establishment,
17 distributor, or delivery service, provided any such individual served
18 in that capacity at the alternative treatment center for six or more
19 months.

20 (9) Whether the applicant can demonstrate that its governance
21 structure includes the involvement of a school of medicine or
22 osteopathic medicine licensed and accredited in the United States,
23 or a general acute care hospital, ambulatory care facility, adult day
24 care services program, or pharmacy licensed in New Jersey,
25 provided that:

26 (a) the school, hospital, facility, or pharmacy has conducted or
27 participated in research approved by an institutional review board
28 related to cannabis involving the use of human subjects, except in
29 the case of an accredited school of medicine or osteopathic
30 medicine that is located and licensed in New Jersey;

31 (b) the school, hospital, facility, or pharmacy holds a profit
32 share or ownership interest in the applicant's organization of 10
33 percent or more, except in the case of an accredited school of
34 medicine or osteopathic medicine that is located and licensed in
35 New Jersey; and

36 (c) the school, hospital, facility, or pharmacy participates in
37 major decision-making activities within the applicant's
38 organization, which may be demonstrated by representation on the
39 board of directors of the applicant's organization.

40 (10) The proposed composition of the applicant's medical
41 advisory board established pursuant to section 15 of P.L.2019,
42 c.153 (C.24:6I-7.5), if any.

43 (11) Whether the applicant intends to or has entered into a
44 partnership with a prisoner re-entry program for the purpose of
45 identifying and promoting employment opportunities at the
46 applicant's organization for former inmates and current inmates

1 leaving the corrections system. If so, the applicant shall provide
2 details concerning the name of the re-entry program, the
3 employment opportunities at the applicant's organization that will
4 be made available to the re-entry population, and any other
5 initiatives the applicant's organization will undertake to provide
6 support and assistance to the re-entry population.

7 (12) Any other information the commission deems relevant in
8 determining whether to grant a permit to the applicant.

9 e. In addition to the information to be submitted pursuant to
10 subsections c. and d. of this section, the commission shall require
11 all permit applicants, other than applicants for a conditional permit,
12 or for an entity that is a microbusiness pursuant to subsection e. of
13 section 11 of P.L.2019, c.153 (C.24:6I-7.1), to submit an attestation
14 signed by a bona fide labor organization stating that the applicant
15 has entered into a labor peace agreement with such bona fide labor
16 organization. Except in the case of an entity holding an
17 unconverted conditional permit, the maintenance of a labor peace
18 agreement with a bona fide labor organization shall be an ongoing
19 material condition of maintaining a medical cannabis cultivator,
20 medical cannabis manufacturer, or medical cannabis dispensary
21 permit. The submission of an attestation and maintenance of a
22 labor peace agreement with a bona fide labor organization by an
23 applicant issued a conditional permit pursuant to subsection d. of
24 section 11 of P.L.2019, c.153 (C.24:6I-7.1.) shall be a requirement
25 for conversion of a conditional permit into a full permit. The
26 failure to enter into a collective bargaining agreement within 200
27 days after the date that a medical cannabis cultivator, medical
28 cannabis manufacturer, or medical cannabis dispensary first opens
29 shall result in the suspension or revocation of such permit or
30 conditional permit.

31 In reviewing initial permit applications, the commission shall
32 give priority to the following, regardless of whether there is any
33 competition among applicants for a particular type of permit:

34 (1) Applicants that are party to a collective bargaining
35 agreement with a bona fide labor organization that currently
36 represents, or is actively seeking to represent, cannabis workers in
37 New Jersey.

38 (2) Applicants that are party to a collective bargaining
39 agreement with a bona fide labor organization that currently
40 represents cannabis workers in another state.

41 (3) Applicants that include a significantly involved person or
42 persons lawfully residing in New Jersey for at least two years as of
43 the date of the application.

44 (4) Applicants that submit a signed project labor agreement with
45 a bona fide building trades labor organization, which is a form of
46 pre-hire collective bargaining agreement covering terms and

1 conditions of a specific project, including labor issues and worker
2 grievances associated with that project, for the construction or
3 retrofit of the facilities associated with the permitted entity.

4 (5) Applicants that submit a signed project labor agreement with
5 a bona fide labor organization for any other applicable project
6 associated with the permitted entity.

7 As used in this subsection, "bona fide labor organization" means
8 a labor organization of any kind or employee representation
9 committee, group, or association, in which employees participate
10 and which exists and is constituted for the purpose, in whole or in
11 part, of collective bargaining or otherwise dealing with medical or
12 personal use cannabis employers concerning grievances, labor
13 disputes, terms or conditions of employment, including wages and
14 rates of pay, or other mutual aid or protection in connection with
15 employment, and may be characterized by: it being a party to one or
16 more executed collective bargaining agreements with medical or
17 personal use cannabis employers, in this State or another state; it
18 having a written constitution or bylaws in the three immediately
19 preceding years; it filing the annual financial report required of
20 labor organizations pursuant to subsection (b) of 29 U.S.C. s.431, or
21 it having at least one audited financial report in the three
22 immediately preceding years; it being affiliated with any regional or
23 national association of unions, including but not limited to state and
24 federal labor councils; or it being a member of a national labor
25 organization that has at least 500 general members in a majority of
26 the 50 states of the United States. A bona fide labor organization
27 includes a bona fide building trades labor organization.

28 f. In reviewing an initial permit application, unless the
29 information is otherwise solicited by the commission in a specific
30 application question, the commission's evaluation of the application
31 shall be limited to the experience and qualifications of the
32 applicant's organization, including controlling owners, any entities
33 with common ownership or control with the applicant, those with a
34 15 percent or greater interest in the applicant's organization,
35 significantly involved persons in the applicant's organization, the
36 other officers, directors, and current or prospective employees of
37 the applicant's organization who have a bona fide relationship with
38 the applicant's organization as of the date of the application, and
39 consultants and independent contractors who have a bona fide
40 relationship with the applicant as of the date of the application.
41 Responses pertaining to applicants who are exempt from the
42 criminal history record background check requirements of section 7
43 of P.L.2009, c.307 (C.24:6I-7) shall not be considered. Each
44 applicant shall certify as to the status of the individuals and entities
45 included in the application.

1 g. The commission shall conduct a disparity study to determine
2 whether race-based measures should be considered when issuing
3 permits pursuant to this section, and shall incorporate the policies,
4 practices, protocols, standards, and criteria developed by the Office
5 of Minority, Disabled Veterans, and Women Cannabis Business
6 Development pursuant to section 32 of P.L.2019, c.153 (C.24:6I-
7 25) to promote participation in the medical cannabis industry by
8 persons from socially and economically disadvantaged
9 communities, including promoting applications for, and the
10 issuance of, medical cannabis cultivator, medical cannabis
11 manufacturer, and medical cannabis dispensary permits to certified
12 minority, minority and women's, women's, and disabled veterans'
13 businesses. To this end, the commission shall seek to issue at least
14 30 percent of the total number of new medical cannabis cultivator
15 permits, medical cannabis manufacturer permits, and medical
16 cannabis dispensary permits issued on or after the effective date of
17 P.L.2019, c.153 (C.24:6I-5.1 et al.) as follows:

18 (1) at least 15 percent of the total number of new medical
19 cannabis cultivator permits, medical cannabis manufacturer permits,
20 and medical cannabis dispensary permits are issued to a qualified
21 applicant that has been certified as a minority business pursuant to
22 P.L.1986, c.195 (C.52:27H-21.18 et seq.); and

23 (2) at least 15 percent of the total number of new medical
24 cannabis cultivator permits, medical cannabis manufacturer permits,
25 and medical cannabis dispensary permits are issued to a qualified
26 applicant that has been certified as a women's business pursuant to
27 P.L.1986, c.195 (C.52:27H-21.18 et seq.), as a minority and
28 women's business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et
29 seq.), or as a disabled-veterans' business, as defined in section 2 of
30 P.L.2015, c.116 (C.52:32-31.2).

31 In selecting among applicants who meet these criteria, the
32 commission shall grant a higher preference to applicants with up to
33 two of the certifications described in this subsection.

34 h. The commission shall give special consideration to any
35 applicant that has entered into an agreement with an institution of
36 higher education to create an integrated curriculum involving the
37 cultivation, manufacturing, dispensing or delivery of medical
38 cannabis, provided that the curriculum is approved by both the
39 commission and the Office of the Secretary of Higher Education
40 and the applicant agrees to maintain the integrated curriculum in
41 perpetuity. An integrated curriculum permit shall be subject to
42 revocation if the IC permit holder fails to maintain or continue the
43 integrated curriculum. In the event that, because of circumstances
44 outside an IC permit holder's control, the IC permit holder will no
45 longer be able to continue an integrated curriculum, the IC permit
46 holder shall notify the commission and shall make reasonable

1 efforts to establish a new integrated curriculum with an institution
2 of higher education, subject to approval by the commission and the
3 Office of the Secretary of Higher Education. If the IC permit
4 holder is unable to establish a new integrated curriculum within six
5 months after the date the current integrated curriculum arrangement
6 ends, the commission shall revoke the entity's IC permit, unless the
7 commission finds there are extraordinary circumstances that justify
8 allowing the permit holder to retain the permit without an integrated
9 curriculum and the commission finds that allowing the permit
10 holder to retain the permit would be consistent with the purposes of
11 P.L.2009, c.307 (C.24:6I-1 et al.), in which case the IC permit shall
12 convert to a regular permit of the same type. The commission may
13 revise the application and permit fees or other conditions for an IC
14 permit as may be necessary to encourage applications for IC
15 permits.

16 i. Application materials submitted to the commission pursuant
17 to this section shall not be considered a public record pursuant to
18 P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et
19 al.), or the common law concerning access to government records.

20 j. If the commission notifies an applicant that it has performed
21 sufficiently well on multiple applications to be awarded more than
22 one permit, the applicant shall notify the commission, within seven
23 business days after receiving such notice, as to which permit type it
24 will accept. For any permit award declined by an applicant
25 pursuant to this subsection, the commission shall, upon receiving
26 notice from the applicant of the declination, award the permit to the
27 applicant for that permit type who, in the determination of the
28 commission, best satisfies the commission's criteria while meeting
29 the commission's determination of Statewide need. If an applicant
30 fails to notify the commission as to which permit it will accept, the
31 commission shall have the discretion to determine which permit it
32 will award to the applicant, based on the commission's
33 determination of Statewide need and other applications submitted
34 for facilities to be located in the affected regions.

35 k. (1) Subject to the provisions of paragraph (2) of this
36 subsection, the provisions of this section shall not apply to any
37 permit applications submitted pursuant to a request for applications
38 published in the New Jersey Register prior to the effective date of
39 P.L.2019, c.153 (C.24:6I-5.1 et al.).

40 (2) The provisions of subsection l. of this section shall not apply
41 to any permit applications submitted pursuant to a request for
42 applications published in the New Jersey Register prior to the
43 effective date of P.L.2021, c.252.

44 l. In addition to the information to be submitted pursuant to
45 subsections c., d., and e. of this section, the commission shall
46 require all permit applicants to submit a copy of any services

1 agreement entered into by the applicant with third party entity,
2 which agreement shall be subject to review as provided in
3 subsection f. of section 11 of P.L.2019, c.153 (C.24:6I-7.1).
4 (cf: P.L.2021, c.252, c.3)

5
6 18. Section 14 of P.L.2009, c.307 (C.24:6I-12) is amended to
7 read as follows:

8 14. a. The commissioner, or after the effective dates of
9 P.L.2019, c.153 (C.24:6I-5.1 et al.) and P.L.2021, c.16 (C.24:6I-31
10 et al.), the commission, shall report to the Governor, and to the
11 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1):

12 (1) no later than one year after the effective date of P.L.2009,
13 c.307 (C.24:6I-1 et al.), on the actions taken to implement the
14 provisions of P.L.2009, c.307 (C.24:6I-1 et al.); and

15 (2) annually thereafter on the number of applications for
16 registration with the commission, the number of qualifying patients
17 registered, the number of designated and institutional caregivers
18 registered, the nature of the qualifying medical conditions of the
19 patients, the number of registrations revoked, the number of
20 medical cannabis cultivator, medical cannabis manufacturer, and
21 medical cannabis dispensary permits issued and revoked, the
22 number and type of integrated curricula approved, established, and
23 maintained in connection with an IC permit, the number of testing
24 laboratories licensed, the number of clinical registrant permits
25 issued and the nature of the clinical research conducted by each
26 clinical registrant, any incidents of diversion of medical cannabis,
27 information concerning racial, ethnic, disabled veteran, and gender
28 diversity in the individuals issued and currently holding permits
29 issued by the commission, the number of permit applications
30 received from businesses owned by minorities, disabled veterans,
31 minorities and women, and women and the number of such
32 applications that were approved, the business development
33 initiatives undertaken by the Office of Minority, Disabled Veterans,
34 and Women Cannabis Business Development pursuant to section 32
35 of P.L.2019, c.153 (C.24:6I-25) and the outcomes or effects of
36 those initiatives, statistics concerning arrests for drug offenses
37 throughout the State and in areas where medical cannabis
38 dispensaries are located, including information concerning racial
39 disparities in arrest rates for drug offenses generally and cannabis
40 offenses in particular, the number of motor vehicle stops by law
41 enforcement involving violations of R.S.39:4-50, or section 5 of
42 P.L.1990, c.103 (C.39:3-10.13) concerning operators of commercial
43 motor vehicles, for driving under the influence of medical cannabis,
44 or suspicion thereof, cataloged by the jurisdictions in which the stop
45 occurred, and the race, ethnicity, gender, and age of the vehicle
46 driver and any other vehicle occupants, the number of deliveries of

1 medical cannabis performed and the percentage of total medical
2 cannabis dispensations that were completed by delivery, and the
3 number of health care practitioners authorizing patients for the
4 medical use of cannabis, including the types of license or
5 certification held by those practitioners; and

6 (3) beginning no later than one year after the effective date of
7 P.L.2021, c.16 (C.24:6I-31 et al.), and annually thereafter in the
8 same report concerning information on medical cannabis activities
9 or a separate report, information on:

10 (a) the number of citations, arrests, or charges for
11 manufacturing, distributing, or possessing or having under control
12 with the intent to distribute marijuana or hashish in violation of
13 paragraph (12) of subsection b. of N.J.S.2C:35-5, or for obtaining
14 or possessing marijuana or hashish in violation of paragraph (3) of
15 subsection a. of N.J.S.2C:35-10, cataloged by the jurisdictions in
16 which the acts resulting in the citations, arrests, or charges
17 occurred, and the race, ethnicity, gender, and age of the persons
18 cited, arrested, or charged;

19 (b) the number of motor vehicle stops by law enforcement
20 involving violations of R.S.39:4-50, or section 5 of P.L.1990, c.103
21 (C.39:3-10.13) concerning operators of commercial motor vehicles,
22 for driving under the influence of personal use cannabis or
23 marijuana, or suspicion thereof, cataloged by the jurisdictions in
24 which the stop occurred, and the race, ethnicity, gender, and age of
25 the vehicle driver and any other vehicle occupants;

26 (c) the total number of personal use cannabis licenses issued
27 since the distribution of the previous report to the Governor and
28 Legislature, as well as the number for each class of license issued,
29 and the total number and type of applicants that submitted
30 applications for licenses and whether they were approved,
31 reapproved, or denied; and

32 (d) the data compiled by the Office of Minority, Disabled
33 Veterans, and Women Cannabis Business Development pursuant to
34 section 32 of P.L.2019, c.153 (C.24:6I-25) about participation in the
35 lawful operation of cannabis establishments, distributors, and
36 delivery services by persons from socially and economically
37 disadvantaged communities, including minority, disabled veterans',
38 minority and women's, and women's business licensing and
39 business development in the personal use cannabis marketplace, and
40 the data shall include the office's analysis of the total number of
41 licenses applied for and issued since the distribution of the previous
42 report to the Governor and Legislature compared with the total
43 number of minority businesses, minority and women's businesses,
44 and women's businesses, as these terms are defined in section 2 of
45 P.L.1986, c.195 (C.52:27H-21.18), and disabled veterans'
46 businesses, as defined in section 2 of P.L.2015, c.116 (C.52:32-

1 31.2), that submitted applications for licenses and whether they
2 were approved, reapproved, or denied.

3 b. The reports shall not contain any identifying information of
4 patients, caregivers, or health care practitioners.

5 c. (1) Within two years after the effective date of P.L.2009, c.307
6 (C.24:6I-1 et al.) and every two years thereafter, the commissioner
7 or, after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.),
8 the commission, shall: evaluate whether there are sufficient
9 numbers of medical cannabis cultivators, medical cannabis
10 manufacturers, medical cannabis dispensaries, and clinical
11 registrants to meet the needs of registered qualifying patients
12 throughout the State; evaluate whether the maximum amount of
13 medical cannabis allowed pursuant to P.L.2009, c.307 (C.24:6I-1 et
14 al.) is sufficient to meet the medical needs of qualifying patients;
15 and determine whether any medical cannabis cultivator, medical
16 cannabis manufacturer, medical cannabis dispensary, or clinical
17 registrant has charged excessive prices in connection with medical
18 cannabis.

19 The commissioner or, after the effective date of P.L.2019, c.153
20 (C.24:6I-5.1 et al.), the commission, shall report all such findings
21 no later than two years after the effective date of P.L.2009, c.307
22 (C.24:6I-1 et al.), and every two years thereafter, to the Governor,
23 and to the Legislature pursuant to section 2 of P.L.1991, c.164
24 (C.52:14-19.1).

25 (2) The commission, beginning no later than one year after the
26 effective date of P.L.2021, c.16 (C.24:6I-31 et al.), may also
27 include in its reports information concerning its periodic evaluation
28 of whether the existing numbers of cannabis cultivators, cannabis
29 manufacturers, cannabis wholesalers, cannabis distributors,
30 cannabis retailers, and cannabis delivery services are sufficient to
31 meet the personal use cannabis market demands of the State, and
32 actions the commission may take to issue additional cannabis
33 licenses as authorized by paragraph (1) of subsection a. of section
34 18 of P.L.2021, c.16 (C.24:6I-35), or if there is an oversupply of
35 licenses, as well as information about any increase in the rates of
36 use of marijuana and cannabis by persons under 21 years of age.
37 (cf: P.L.2021, c.16, s.7)

38
39 19. Section 32 of P.L.2019, c.153 (C.24:6I-25) is amended to
40 read as follows:

41 32. a. There is hereby established in the commission an Office
42 of Minority, Disabled Veterans, and Women Cannabis Business
43 Development. The office shall be under the immediate supervision
44 of a director. The director of the office shall be appointed by the
45 Governor, and shall serve at the pleasure of the appointing
46 Governor during the Governor's term of office and until a successor

1 has been duly appointed and qualified. Any vacancy in the
2 directorship occurring for any reason other than the expiration of
3 the director's term of office shall be filled for the unexpired term
4 only in the same manner as the original appointment. The director
5 shall receive an annual salary as provided by law which shall be at
6 an amount not to exceed the annual salary of the executive director
7 of the commission.

8 b. (1) The office shall establish and administer, under the
9 direction of the commission, unified practices and procedures for
10 promoting participation in the medical cannabis and personal use
11 cannabis industries by persons from socially and economically
12 disadvantaged communities, including by prospective and existing
13 ownership of minority businesses, minority and women's
14 businesses, and women's businesses, as these terms are defined in
15 section 2 of P.L.1986, c.195 (C.52:27H-21.18), and disabled
16 veterans' businesses as defined in section 2 of P.L.2015, c.116
17 (C.52:32-31.2), to be issued medical cannabis cultivator, medical
18 cannabis manufacturer, medical cannabis dispensary, and clinical
19 registrant permits, or cannabis cultivator, cannabis manufacturer,
20 cannabis wholesaler, cannabis distributor, cannabis retailer, and
21 cannabis delivery service licenses. These unified practices and
22 procedures shall include the certification and subsequent
23 recertification at regular intervals of a business as a minority,
24 minority and women's, or women's business, or a disabled veterans'
25 business, in accordance with eligibility criteria and a certification
26 application process established by the commission through
27 regulation in consultation with the office.

28 (2) The office shall conduct advertising and promotional
29 campaigns, and shall disseminate information to the public, to
30 increase awareness for participation in the medical cannabis and
31 personal use cannabis industries by persons from socially and
32 economically disadvantaged communities. To this end, the office
33 shall sponsor seminars and informational programs, and shall
34 provide information on the commission's Internet website,
35 providing practical information concerning the medical cannabis
36 and personal use cannabis industries, including information on
37 business management, marketing, and other related matters.

38 c. (1) The office shall develop, recommend, and implement
39 policies, practices, protocols, standards, and criteria designed to
40 promote the formulation of medical cannabis business entities and
41 personal use cannabis establishments, distributors, and delivery
42 services and participation in the medical cannabis and personal use
43 cannabis industries by persons from socially and economically
44 disadvantaged communities, including by promoting applications
45 for, and the issuance of, medical cannabis cultivator, medical
46 cannabis manufacturer, medical cannabis dispensary, and clinical

1 registrant permits, and cannabis cultivator, cannabis manufacturer,
2 cannabis wholesaler, cannabis distributor, cannabis retailer, and
3 cannabis delivery services licenses, to certified minority, minority
4 and women's, women's, and disabled veterans' businesses.

5 (a) The office shall evaluate the effectiveness of the measures
6 designed to promote participation in the medical cannabis industry
7 by considering whether the measures have resulted in new medical
8 cannabis cultivator, medical cannabis manufacturer, and medical
9 cannabis dispensary permits being issued in accordance with the
10 provisions of subsection g. of section 12 of P.L.2019, c.153
11 (C.24:6I-7.2).

12 (b) The effectiveness of the office's measures designed to
13 promote participation in the personal use cannabis industry shall be
14 assessed by considering whether the measures have resulted in not
15 less than 30 percent of the total number of licenses issued by the
16 commission for personal use cannabis establishments, distributors,
17 and delivery services under P.L.2021, c.16 (C.24:6I-31 et al.) being
18 issued to minority, minority and women's, women's, and disabled
19 veterans' businesses certified in accordance with the certification
20 process established by the office pursuant to paragraph (1) of
21 subsection b. of this section. Of the resulting total number of
22 licenses issued for personal use cannabis establishments,
23 distributors, and delivery services, the effectiveness of the office's
24 measures shall be further assessed by considering whether those
25 measures have resulted in not less than 15 percent of the licenses
26 being issued to certified minority businesses, and not less than 15
27 percent of the licenses being issued to certified minority and
28 women's, women's, and disabled veterans' businesses.

29 (2) The office shall periodically analyze the total number of
30 permits and licenses issued by the commission as compared with
31 the number of certified minority, minority and women's, women's,
32 and disabled veterans' businesses that submitted applications for,
33 and that were awarded, such permits and licenses. The office shall
34 make good faith efforts to establish, maintain, and enhance the
35 measures designed to promote the formulation and participation in
36 the operation of medical cannabis entities and personal use cannabis
37 establishments, distributors, and delivery services by persons from
38 socially and economically disadvantaged communities consistent
39 with the standards set forth in paragraph (1) of this subsection, and
40 to coordinate and assist the commission with respect to its
41 incorporation of these permitting and licensing measures into the
42 application and review process for issuing permits and licenses
43 under P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2021, c.16
44 (C.24:6I-31 et al.).

45 d. The office may review the commission's measures regarding
46 participation in the medical cannabis and personal use cannabis

1 industries by persons from socially and economically disadvantaged
2 communities, and minority, minority and women's, women's, and
3 disabled veterans' businesses, and make recommendations on
4 relevant policy and implementation matters for the improvement
5 thereof. The office may consult with experts or other
6 knowledgeable individuals in the public or private sector on any
7 aspect of its mission.

8 e. The office shall prepare information regarding its activities
9 pursuant to this section concerning participation in the medical
10 cannabis and personal use cannabis industries by persons from
11 socially and economically disadvantaged communities, including
12 medical cannabis and personal use cannabis business development
13 initiatives for minority, minority and women's, women's, and
14 disabled veterans' businesses participating in the medical and
15 person use cannabis marketplaces, to be incorporated by the
16 commission into its annual report submitted to the Governor and to
17 the Legislature pursuant to section 14 of P.L.2009, c.307 (C.24:6I-
18 12).

19 (cf: P.L.2021, c.16, s.15)

20
21 20. Section 1 of P.L.1985, c.482 (C.40A:11-41) is amended to
22 read as follows:

23 1. As used in this act:

24 a. "County or municipal contracting agency" shall mean the
25 governing body of a county or municipality or any department,
26 board, commission, committee, authority or agency of a county or
27 municipality but shall not include school districts;

28 b. "Minority group members" shall mean persons who are
29 black, Hispanic, Portuguese, Asian-American, American Indian or
30 Alaskan natives;

31 c. "Qualified women's business enterprise" shall mean a
32 business which has its principal place of business in this State, is
33 independently owned and operated, is at least 51 percent owned and
34 controlled by women and is qualified pursuant to section 25 of
35 P.L.1971, c.198 (C.40A:11-25);

36 d. "Qualified minority business enterprise" shall mean a
37 business which has its principal place of business in this State, is
38 independently owned and operated, is at least 51 percent owned and
39 controlled by minority group members and is qualified pursuant to
40 section 25 of P.L.1971, c.198 (C.40A:11-25);

41 e. "Qualified small business enterprise" shall mean a business
42 which has its principal place of business in this State, is
43 independently owned and operated and meets all other
44 qualifications as may be established in accordance with P.L.1981,
45 c.283 (C.52:27H-21.1 et seq.);

- 1 f. "Set-aside contracts" shall mean (1) a contract for goods,
2 equipment, construction, or services which is designated as a
3 contract for which bids are invited and accepted only from qualified
4 small business enterprises, qualified veteran business enterprises,
5 qualified minority business enterprises or qualified women's
6 business enterprises, as appropriate, (2) a portion of a contract when
7 that portion has been so designated, or (3) any other purchase or
8 procurement so designated;
- 9 g. "Total procurements" shall mean all purchases, contracts or
10 acquisitions of a county or municipal contracting agency, whether
11 by competitive bidding, single source contracting, or other method
12 of procurement, as prescribed or permitted by law;
- 13 h. "Veteran" means any resident of this State now or hereafter
14 who has served in any branch of the Armed Forces of the United
15 States or a Reserve component thereof or the National Guard of this
16 State or another state as defined in section 1 of P.L.1963, c.109
17 (C.38A:1-1), and has been discharged honorably or under general
18 honorable conditions from such service, except that the veteran
19 shall present to the Adjutant General of the Department of Military
20 and Veterans' Affairs sufficient evidence of a record of service,
21 which shall include the applicant's DD-214, DD-215, or DD-256
22 form as issued by the federal government; NGB-22 or other
23 approved separation forms as outlined by all branches of the Armed
24 Forces; a county-issued veteran identification card pursuant to
25 P.L.2012, c.30 (C.40A:9-78.1 et seq.); or a veteran identification
26 card as issued by the United States Department of Veterans Affairs
27 under the "Veterans Identification Card Act of 2015," (38 U.S.C.
28 s.5706) and receive a determination of status no later than the date
29 established for the submission of bids; **[and]**
- 30 i. "Qualified veteran business enterprise" shall mean a
31 business which has its principal place of business in this State, is
32 independently owned and operated, is at least 51 percent owned and
33 controlled by a veteran or that wherein at least twenty five percent
34 of the required workforce for the contract are veterans, including
35 new hires if additional workers are required to perform the contract,
36 and is qualified pursuant to section 25 of P.L.1971, c.198
37 (C.40A:11-25). The business shall also submit forms quarterly to
38 the contracting agency showing proof of veteran status for all the
39 veteran employees**[.] ; and**
- 40 j. "Qualified minority and women's business enterprise" shall
41 mean a business which has its principal place of business in this
42 State, is independently owned and operated, is at least 51 percent
43 owned and controlled by a combination of minority group members
44 and women, and is qualified pursuant to section 25 of P.L.1971,
45 c.198 (C.40A:11-25).
46 (cf: P.L.2019, c.500, s.11)

1 21. Section 2 of P.L.1985, c.482 (C.40A:11-42) is amended to
2 read as follows:

3 2. a. The governing body of a county or municipality may, by
4 ordinance or resolution, as appropriate, establish a qualified
5 minority business enterprise set-aside program. In authorizing such
6 a program, the governing body of a county or municipality shall
7 establish a goal for its contracting agencies of setting aside a certain
8 percentage of the dollar value of total procurements to be awarded
9 as set-aside contracts to qualified minority business enterprises.

10 b. The governing body of a county or municipality may, by
11 ordinance or resolution, as appropriate, establish a qualified
12 women's business enterprise set-aside program. In authorizing such
13 a program, the governing body of a county or municipality shall
14 establish a goal for its contracting agencies of setting aside a certain
15 percentage of the dollar value of total procurements to be awarded
16 as set-aside contracts to qualified women's business enterprises.

17 c. The governing body of a county or municipality may, by
18 ordinance or resolution, as appropriate, establish a qualified small
19 business enterprise set-aside program. In authorizing such a
20 program, the governing body of a county or municipality shall
21 establish a goal for its contracting agencies of setting aside a certain
22 percentage of the dollar value of total procurements to be awarded
23 as set-aside contracts to qualified small business enterprises.

24 d. The governing body of a county or municipality may, by
25 ordinance or resolution, as appropriate, establish a qualified veteran
26 business enterprise set-aside program. In authorizing such a
27 program, the governing body of a county or municipality shall
28 establish a goal for its contracting agencies of setting aside a certain
29 percentage of the dollar value of total procurements to be awarded
30 as set-aside contracts to qualified veteran business enterprises.

31 e. The governing body of a county or municipality may, by
32 ordinance or resolution, as appropriate, establish a qualified
33 minority and women's business enterprise set-aside program. In
34 authorizing such a program, the governing body of a county or
35 municipality shall establish a goal for its contracting agencies of
36 setting aside a certain percentage of the dollar value of total
37 procurements to be awarded as set-aside contracts to qualified
38 minority and women's business enterprises.

39 (cf: P.L.2013, c.5, s.2)
40

41 22. Section 3 of P.L.1985, c.482 (C.40A:11-43) is amended to
42 read as follows:

43 3. a. Any goal established pursuant to section 2 of this act,
44 P.L.1985, c.482 (C.40A:11-41 et seq.), may be attained by requiring
45 that a portion of a contract be subcontracted to a qualified small
46 business enterprise, qualified veteran business enterprise, qualified

1 minority business enterprise, qualified minority and women's
2 business enterprise, or qualified women's business enterprise, in
3 addition to designating entire contracts to these enterprises.

4 b. Each contracting agency shall make a good faith effort to
5 attain any goal established by its governing body. The governing
6 body shall evaluate each contracting agency's efforts by comparing
7 the percentage of the dollar value of a contracting agency's total
8 procurements awarded to qualified small business enterprises,
9 qualified veteran business enterprises, qualified minority business
10 enterprises, qualified minority and women's business enterprises, or
11 qualified women's business enterprises, as appropriate, to the
12 percentage of the dollar value of the county's or municipality's total
13 procurements awarded to qualified small business enterprises,
14 qualified veteran business enterprises, qualified minority business
15 enterprises, qualified minority and women's business enterprises, or
16 qualified women's business enterprises, as appropriate.

17 (cf: P.L.2013, c.5, s.3)

18
19 23. Section 5 of P.L.1985, c.482 (C.40A:11-45) is amended to
20 read as follows:

21 5. Notwithstanding the provisions of any law to the contrary, a
22 contracting agency of a county or municipality which has
23 established a qualified small business enterprise set-aside program,
24 a qualified veteran business enterprise set-aside program, a
25 qualified minority business enterprise set-aside program, a qualified
26 minority and women's business enterprise set-aside program, or a
27 qualified women's business enterprise set-aside program shall
28 designate that a contract, subcontract, or other means of
29 procurement of goods, services, equipment, or construction be
30 awarded to a qualified small business enterprise, a qualified veteran
31 business enterprise, a qualified minority business enterprise, a
32 qualified minority and women's business enterprise, or a qualified
33 women's business enterprise, if a contracting agency is likely to
34 receive bids from at least two qualified small business enterprises,
35 qualified veteran business enterprises, qualified minority business
36 enterprises, qualified minority and women's business enterprises, or
37 qualified women's business enterprises, as appropriate, at a fair and
38 reasonable price.

39 Such designations shall be made prior to any advertisement for
40 bids, if required. Once designated, the advertisement for bids, if
41 necessary, shall indicate that the contract to be awarded is a
42 qualified small business enterprise set-aside contract, qualified
43 veteran business enterprise set-aside contract, a qualified minority
44 business enterprise set-aside contract, a qualified minority and
45 women's business enterprise set-aside contract, or a qualified
46 women's business enterprise set-aside contract, as appropriate. All

1 advertisements for bids shall be published in at least one newspaper
2 which will best provide notice thereof to qualified small business
3 enterprises, qualified veteran business enterprises, qualified
4 minority business enterprises, qualified minority and women's
5 business enterprises, or **【to】** qualified women's business
6 enterprises, as appropriate, sufficiently in advance of the date fixed
7 for receiving the bids to promote competitive bidding, but shall not
8 be published less than 10 days prior to that date.

9 (cf: P.L.2013, c.5, s.4)

10
11 24. Section 6 of P.L.1985, c.482 (C.40A:11-46) is amended to
12 read as follows:

13 6. a. If the contracting agency determines that two bids from
14 qualified small, qualified veteran, qualified minority, qualified
15 minority and women's, or qualified women's businesses cannot be
16 obtained, the contracting agency may withdraw the designation of
17 the set-aside contract and resolicit bids on an unrestricted basis
18 pursuant to the provisions of P.L.1971, c.198 (C.40A:11-1 et seq.).
19 The cancelled designation shall not be considered in determining
20 the percentage of contracts awarded pursuant to subsection b. of
21 section 3 of this act, P.L.1985, c.482 (C.40A:11-41 et seq.).

22 b. If the contracting agency determines that the acceptance of
23 the lowest responsible bid will result in the payment of an
24 unreasonable price, the contracting agency shall reject all bids and
25 withdraw the designation of the set-aside contract. Qualified small
26 business enterprises, qualified veteran business enterprises,
27 qualified minority business enterprises, qualified minority and
28 women's business enterprises, or qualified women's business
29 enterprises, as appropriate, shall be notified in writing of the set-
30 aside cancellation, the reasons for the rejection and the agency's
31 intent to resolicit bids on an unrestricted basis pursuant to the
32 provisions of P.L.1971, c.198 (C.40A:11-1 et seq.). The cancelled
33 bid solicitation shall not be considered in determining the
34 percentage of contracts awarded pursuant to subsection b. of section
35 3 of this act, P.L.1985, c.482 (C.40A:11-41 et seq.).

36 (cf: P.L.2013, c.5, s.5)

37
38 25. Section 7 of P.L.1985, c.482 (C.40A:11-47) is amended to
39 read as follows:

40 7. Where the governing body of a county or municipality
41 determines that a business has been classified as a qualified small
42 business enterprise, qualified veteran business enterprise, qualified
43 minority business enterprise, qualified minority and women's
44 business enterprise, or qualified women's business enterprise on the
45 basis of false information knowingly supplied by the business and
46 has been awarded a contract to which it would not otherwise have

1 been entitled under this act, P.L.1985, c.482 (C.40A:11-41 et seq.),
2 the governing body shall have the authority to:

3 a. Assess against the business any difference between the
4 contract and what the governing body's cost would have been if the
5 contract had not been awarded in accordance with the provisions of
6 this act;

7 b. In addition to the amount due under subsection a., assess
8 against the business a penalty in an amount of not more than 10**[%]**
9 percent of the amount of the contract involved; and

10 c. Order the business ineligible to transact any business with
11 the governing body or contracting agency of the governing body for
12 a period to be determined by the governing body.

13 Prior to any final determination, assessment, or order under this
14 section, the governing body shall afford the business an opportunity
15 for a hearing on the reasons for the imposition of the penalties set
16 forth in subsection a., b., or c. of this section.

17 (cf: P.L.2013, c.5, s.6)

18
19 26. Section 8 of P.L.1985, c.482 (C.40A:11-48) is amended to
20 read as follows:

21 8. Each contracting agency of a county or municipality which
22 has established a qualified small business enterprise set-aside
23 program, a qualified veteran business enterprise set-aside program,
24 a qualified minority business enterprise set-aside program, a
25 qualified minority and women's business enterprise set-aside
26 program, or a qualified women's business enterprise set-aside
27 program shall submit a report to its governing body by January 31
28 of each year describing the agency's efforts in attaining the set-
29 aside goals and the percentage of the dollar value of total
30 procurements awarded pursuant to subsection b. of section 3 of this
31 act, P.L.1985, c.482 (C.40A:11-41 et seq.). The governing body
32 shall publish a list of each agency's attainments in the immediately
33 preceding local fiscal year, to include the county or municipal
34 average, in at least one newspaper circulating in the county or
35 municipality, as appropriate, by March 1 of each year.

36 (cf: P.L.2013, c.5, s.7)

37
38 27. Section 1 of P.L.2021, c.200 (C.48:3-106.1) is amended to
39 read as follows:

40 1. As used in in P.L.2021, c.200 (C.48:3-106.1 et seq.):

41 "ANSI" means American National Standards Institute.

42 "ASHRAE" means the American Society of Heating,
43 Refrigerating and Air-Conditioning Engineers.

44 "Board" means the Board of Public Utilities or any successor
45 agency.

1 "Board of education" means and includes the board of education
2 of any local school district, consolidated school district, regional
3 school district, county vocational school and any other board of
4 education or other similar body other than the State Board of
5 Education, the Commission on Higher Education or the Presidents'
6 Council, established and operating under the provisions of Title
7 18A of the New Jersey Statutes and having authority to make
8 purchases and to enter into contracts for the provision or
9 performance of goods or services. "Board of education" shall
10 include the board of trustees of a charter school established under
11 P.L.1995, c.426 (C.18A:36A-1 et seq.).

12 "Certified energy auditor" means a commercial entity determined
13 to be qualified by the board to conduct and develop an energy audit
14 meeting the standards of ASHRAE Level II and III, including those
15 qualified by the Division of Property Management and Construction
16 in the Department of the Treasury.

17 "Certified TAB technician" means a technician certified to
18 perform testing, adjusting, and balancing of HVAC systems by the
19 Associated Air Balance Council (AABC), the National
20 Environmental Balancing Bureau (NEBB), or the Testing,
21 Adjusting and Balancing Bureau (TABB).

22 "Coronavirus 2019" means the coronavirus disease 2019, as
23 announced by the World Health Organization on February 11, 2020,
24 and first identified in Wuhan, China.

25 "HVAC" means heating, ventilation, and air conditioning.

26 "MERV" means minimum efficiency reporting value.

27 "Noncompliant appliance" means all of the following:

28 a. a commercial dishwasher that was manufactured prior to
29 January 1, 2010, that does not meet the efficiency requirement of
30 the Energy Star Product Specification for Commercial Dishwashers,
31 Version 1.1;

32 b. an automatic commercial ice maker that was manufactured
33 prior to January 1, 2010, that does not meet the efficiency
34 requirement of the Energy Star Product Specification for Automatic
35 Commercial Ice Makers, Version 1; or

36 c. a commercial clothes washer that was manufactured prior to
37 1 January 1, 2010, that does not meet the efficiency requirement of
38 the Energy Star Product Specification for Clothes Washers, Version
39 5.0.

40 "Noncompliant plumbing fixture" means:

41 a. a toilet manufactured to use more than 1.6 gallons of water
42 per flush;

43 b. a urinal manufactured to use more than one gallon of water
44 per flush;

45 c. a showerhead manufactured to have a flow capacity of more
46 than 2.5 gallons of water per minute; or

- 1 d. an interior faucet that emits more than 2.2 gallons of water
2 per minute.
- 3 "PPM" means parts per million.
- 4 "Program fund " means the School and Small Business Energy
5 Efficiency Stimulus Program Fund established pursuant to section 2
6 of P.L.2021, c.200 (C.48:3-106.2).
- 7 "Qualified adjusting personnel" or "qualified testing personnel"
8 means either of the following:
- 9 a. a certified TAB technician; or
- 10 b. a skilled and trained workforce under the supervision of a
11 certified TAB technician.
- 12 "Registered apprenticeship program" means a plan containing all
13 the terms and conditions for the qualification, recruitment,
14 selection, employment, and training of apprentices, as required
15 under Part 29 and Part 30 of Title 49 of the Code of Federal
16 Regulations, including meeting all requirements set forth under
17 section 2 of P.L.2019, c.518 (C.34:11-56.71).
- 18 "Skilled and trained workforce" means a workforce where at
19 least 60 percent of the construction workers are graduates of a
20 registered apprenticeship program for the applicable occupation.
- 21 "Small business" means a sole proprietorship, partnership or
22 corporation that has its principal place of business in the State, is of
23 a size and type determined by the board, and is a women's business,
24 minority and women's business, or minority business, as those
25 terms are defined in section 2 of **【P.L.1987, c.55 (C.52:27H-21.8)】**
26 P.L.1986, c.195 (C.52:27H-21.18).
- 27 "SSBNPFA Program" means the School and Small Business
28 Noncompliant Plumbing Fixture and Appliance Program established
29 pursuant to section 5 of P.L.2021, c.200 (C.48:3-106.5).
- 30 "SSBVEEVR Program" means the School and Small Business
31 Ventilation and Energy Efficiency Verification and Repair Program
32 established pursuant to section 4 of P.L.2021, c.200 (C.48:3-106.4).
- 33 "TAB" means testing, adjusting, and balancing.
- 34 "Underserved community" means a school district in which at
35 least 75 percent of public school students are eligible to receive free
36 or reduced-price meals under the National School Lunch Program
37 established pursuant to the "Richard B. Russell National School
38 Lunch Act," Pub.L.79-396 (42 U.S.C. s.1751 et seq.).
- 39 "Water-conserving appliance" means any of the following:
- 40 a. a commercial dishwasher that meets the criteria of the
41 Energy Star Product Specification for Commercial Dishwashers,
42 Version 2.0, or any revision to those criteria published by the
43 United States Environmental Protection Agency that is adopted by
44 the board for the program;
- 45 b. an automatic commercial ice maker that meets the criteria of
46 the Energy Star Product Specification for Automatic Commercial

1 Ice Makers, Version 3.0, or any revision to those criteria published
2 by the United States Environmental Protection Agency that is
3 adopted by the board for the program; or

4 c. a commercial clothes washer that meets the criteria of the
5 Energy Star Product Specification for Clothes Washers, Version
6 8.0, or any revision to those criteria published by the United States
7 Environmental Protection Agency that is adopted by the board for
8 the program.

9 (cf: P.L.2021, c.200, s.1)

10
11 28. Section 2 of P.L.1986, c.195 (C.52:27H-21.18) is amended
12 to read as follows:

13 2. As used in this act:

14 a. "Control" means authority over the affairs of a business,
15 including, but not limited to, capital investment, property
16 acquisition, employee hiring, contract negotiations, legal matters,
17 officer and director selection, operating responsibility, financial
18 transactions and the rights of other shareholders or joint partners;
19 except that control shall not include absentee ownership, nor shall it
20 be deemed to exist where an owner or employee who is not a
21 minority, in the case of a minority business; or a male owner or
22 employee, in the case of a women's business, is disproportionately
23 responsible for the operation of the business or for policy and
24 contractual decisions.

25 b. "Commissioner" means the Treasurer of the State of New
26 Jersey.

27 c. "Director" means the Director of the Division of Revenue
28 and Enterprise Services in the New Jersey Department of the
29 Treasury.

30 d. "Division" means the Division of Revenue and Enterprise
31 Services in the New Jersey Department of the Treasury.

32 e. "Minority" means a person who is:

33 (1) Black, which is a person having origins in any of the black
34 racial groups in Africa; or

35 (2) Hispanic, which is a person with origins in Mexico, South or
36 Central America, or the Caribbean Islands, regardless of race; or

37 (3) Asian American, which is a person having origins in any of
38 the original peoples of the Far East, Southeast Asia, Indian
39 subcontinent, Hawaii, or the Pacific Islands; or

40 (4) American Indian or Alaskan native, which is a person having
41 origins in any of the original peoples of North America.

42 f. "Minority business" means a business which is:

43 (1) A sole proprietorship owned and controlled by a minority;

44 (2) A partnership or joint venture owned and controlled by
45 minorities in which at least 51【%】 percent of the ownership interest
46 is held by minorities and the management and daily business

1 operations of which are controlled by one or more of the minorities
2 who own it; or

3 (3) A corporation or other entity whose management and daily
4 business operations are controlled by one or more minorities who
5 own it, and of which at least 51【%】 percent of the legal beneficial
6 ownership is held by one or more minorities.

7 g. "Public agency" means the State or any department, division,
8 agency, authority, board, commission or committee thereof.

9 h. "Woman" or "women" means a female or females, regardless
10 of race.

11 i. "Women's business" means a business which is:

12 (1) A sole proprietorship owned and controlled by a woman;
13 **【or】**

14 (2) A partnership or joint venture owned and controlled by
15 women in which at least 51【%】 percent of the ownership is held by
16 women and the management and daily business operations of which
17 are controlled by one or more women who own it; or

18 (3) A corporation or other entity whose management and daily
19 business operations are controlled by one or more women who own
20 it, and of which at least 51【%】 percent of the legal beneficial
21 ownership is held by women.

22 j. "Applicant" means an individual or individuals, a sole
23 proprietor, partnership, joint venture or corporation that applies for
24 certification as a minority business or women's business, in
25 accordance with the provisions of P.L.1986, c.195 (C.52:27H-21.17
26 et seq.).

27 k. "Minority and women's business" means a business which
28 is:

29 (1) A partnership or joint venture owned and controlled by
30 minorities and women in which at least 51 percent of the ownership
31 interest is held by minorities and women and the management and
32 daily business operations of which are controlled by one or more of
33 the minorities or women who own it; or

34 (2) A corporation or other entity whose management and daily
35 business operations are controlled by one or more minorities or
36 women who own it, and of which at least 51 percent of the legal
37 beneficial ownership is held by two or more minorities and women.

38 (cf: P.L.2023, c.217, s.1)

39

40 29. Section 3 of P.L.1986, c.195 (C.52:27H-21.19) is amended
41 to read as follows:

42 3. Notwithstanding the provisions of any law, rule, or
43 regulation to the contrary, the division shall have the exclusive
44 authority within State government to certify to public agencies the
45 eligibility of a business to bid on contracts as a "minority business,"
46 "minority and women's business," or "women's business" under

1 any program conducted by the public agency for which such
2 certification is so required. That certification by the division shall
3 be binding on the public agency.

4 (cf: P.L.1986, c.195, s.3)

5
6 30. Section 4 of P.L.1986, c.195 (C.52:27H-21.20) is amended
7 to read as follows:

8 4. The division shall establish a unified procedure for the
9 certification of a business as a minority business, minority and
10 women's business, or women's business, for the purpose of
11 establishing eligibility to bid on public contracts.

12 In establishing and administering the procedure required by this
13 section, the director shall **【insure】** ensure that the application and
14 certification process is clear, concise, and, to the extent practicable,
15 does not require duplication of effort on the part of the applicant or
16 the division or the public agency administering the program. In
17 furtherance of these objectives, the director shall:

18 a. Establish criteria to be used to determine the status of a
19 business as a minority business, minority and women's business, or
20 women's business, as defined by section 2 of this act, P.L.1986,
21 c.195 (C.52:27H-21.17 et seq.), which criteria, to the extent not
22 inconsistent with this act, shall conform to federal law or
23 regulations and criteria used by the division;

24 b. Provide a single form for application for certification, which
25 form shall be written in a simple, clear, understandable, and easily
26 readable way, and include instructions as to the certification
27 procedure and any additional documents or information required to
28 be separately supplied by the applicant for a particular program;

29 c. Have the authority to require the payment of a single fee, to
30 be established by the director, to compensate the division for its
31 cost in administering the certification process;

32 d. Screen applicants to **【insure】** ensure that businesses seeking
33 certification are not misrepresenting their status as minority
34 businesses, minority and women's businesses, or women's
35 businesses, as the case may be, and that the minority, minority and
36 women's, or women's business applicants are, in fact, in the control
37 of members of minority groups or women, or both, and are not
38 merely "fronts" for businesses controlled by persons other than
39 minorities or women, or both;

40 e. Monitor the status of certified businesses to **【insure】** ensure
41 continued compliance with the criteria for certification and control
42 by the appropriate persons;

43 f. Compile, maintain, and make available to the public agencies
44 lists of businesses certified as minority businesses, minority and
45 women's businesses, or women's businesses; and

1 g. Provide for dissemination of information to interested
2 parties, and the public at large, concerning the certification of
3 businesses as minority businesses, minority and women's
4 businesses, or women's businesses, as required by this act,
5 P.L.1986, c.195 (C.52:27H-21.17 et seq.).

6 (cf: P.L.1986, c.195, s.4)

7
8 31. Section 5 of P.L.1986, c.195 (C.52:27H-21.21) is amended
9 to read as follows:

10 5. When the division's procedure for certification of a business
11 as a minority business, minority and women's business, or women's
12 business conflicts with a federal certification procedure that affects
13 a State project in which the federal government participates, the
14 federal certification procedure shall take precedence. Public
15 agencies shall identify those projects and shall notify the division.

16 (cf: P.L.1986, c.195, s.5)

17
18 32. Section 6 of P.L.1986, c.195 (C.52:27H-21.22) is amended
19 to read as follows:

20 6. The director may require of a first-time applicant for
21 certification as a minority business, minority and women's
22 business, or women's business the documentation that is necessary
23 to determine the applicant's eligibility for certification. Such
24 documentation may include, but not be limited to:

25 a. Names and addresses of the owner, partners, or shareholders,
26 as applicable, and their representative shares of ownership;

27 b. Names and addresses of members of the board of directors,
28 in the case of corporations;

29 c. Names and addresses of the officers of the business;

30 d. Number of shares of stock issued and outstanding, in the
31 case of a corporation;

32 e. Articles of incorporation, bylaws, partnership agreements, or
33 joint venture agreements, as applicable;

34 f. Organizational charts;

35 g. An applicant's certificate of birth and motor vehicle driver's
36 license; and

37 h. An affidavit certifying that the applicant is a minority
38 business, minority and women's business, or women's business, as
39 defined pursuant to section 2 of P.L.1986, c.195 (C.52:27H-21.18).

40 The director shall not require an applicant to provide any
41 personal federal or personal State income tax returns.

42 (cf: P.L.2003, c.189, s.3)

43
44 33. Section 4 of P.L.2003, c.189 (C.52:27H-21.22a) is amended
45 to read as follows:

1 4. The director shall require a first-time applicant to apply for
2 recertification as a minority business, minority and women's
3 business, or women's business one year after the original
4 certification was issued. The director may require of the applicant
5 the documentation that is necessary to determine the applicant's
6 eligibility for recertification, including but not limited to:

7 a. Names and addresses of the owner, partners, or shareholders,
8 as applicable, and their representative shares of ownership;

9 b. Names and addresses of members of the board of directors,
10 in the case of corporations;

11 c. Names and addresses of the officers of the business;

12 d. Names and addresses of capital investors;

13 e. Number of shares of stock issued and outstanding, in the
14 case of a corporation;

15 f. Articles of incorporation, bylaws, partnership agreements, or
16 joint venture agreements, as applicable;

17 g. The capacity of the business to be bonded;

18 h. The affiliation of the business or any of its owners, officers,
19 or directors with any other business entity;

20 i. A representative list of prior and current clients;

21 j. Major real and personal property holdings of the business;

22 k. Financial statements and balance sheets;

23 l. Banking institutions with which the business is affiliated;

24 **[and]**

25 m. Organizational charts;

26 n. An applicant's certificate of birth and motor vehicle driver's
27 license;

28 o. Personal or corporate federal or State income tax returns;

29 p. An affidavit certifying that the applicant is a minority
30 business, minority and women's business, or women's business, as
31 defined in section 2 of P.L.1986, c.195 (C.52:27H-21.18); and

32 q. Any other information the director deems necessary to
33 effectuate the purposes of this act, P.L.2003, c.189 (C.52:27H-
34 21.22a et al.).

35 (cf: P.L.2003, c.189, s.4)

36
37 34. Section 5 of P.L.2003, c.189 (C.52:27H-21.22b) is amended
38 to read as follows:

39 5. After a minority business, minority and women's business,
40 or women's business has been recertified after first receiving initial
41 certification, the director shall require the certified minority
42 business, certified minority and women's business, or certified
43 women's business to apply for recertification every five years. The
44 director may require of the applicant the documentation that is
45 necessary to determine the applicant's eligibility for recertification,
46 including but not limited to:

- 1 a. Names and addresses of the owner, partners, or shareholders,
2 as applicable, and their representative shares of ownership;
3 b. Names and addresses of members of the board of directors,
4 in the case of corporations;
5 c. Names and addresses of the officers of the business;
6 d. Names and addresses of capital investors;
7 e. Number of shares of stock issued and outstanding, in the
8 case of a corporation;
9 f. Articles of incorporation, bylaws, partnership agreements, or
10 joint venture agreements, as applicable;
11 g. (Deleted by amendment, P.L.2023, c.217)
12 h. The affiliation of the business or any of its owners, officers,
13 or directors with any other business entity;
14 i. A representative list of prior and current clients;
15 j. Major real and personal property holdings of the business;
16 k. Financial statements and balance sheets;
17 l. Banking institutions with which the business is affiliated;
18 **[and]**
19 m. Organizational charts;
20 n. An applicant's certificate of birth and motor vehicle driver's
21 license;
22 o. Personal or corporate federal or State income tax returns;
23 p. An affidavit certifying that the applicant is a minority
24 business, minority and women's business, or women's business, as
25 defined in section 2 of P.L.1986, c.195 (C.52:27H-21.18); and
26 q. Any other information the director deems necessary to
27 effectuate the purposes of this act, P.L.2003, c.189 (C.52:27H-
28 21.22a et al.).
29 (cf: P.L.2023, c.217, s.2)

30
31 35. Section 3 of P.L.1983, c.482 (C.52:32-19) is amended to
32 read as follows:

33 3. As used in this act:

- 34 a. "Contracting agency" means the State or any board,
35 commission, committee, authority, or agency of the State.
36 b. "Chief" means the Chief of the Office of Small Business
37 Assistance when used in conjunction with the small business,
38 minority and female business, and female business set-aside
39 programs, or the Chief of the Office of Minority Business
40 Enterprise when used in conjunction with the minority business and
41 minority and female business set-aside **[program]** programs.
42 c. "Department" means the Department of Commerce and
43 Economic Development.
44 d. "Office" means the Office of Small Business Assistance in the
45 Department of Commerce and Economic Development when used
46 in conjunction with the small business, minority and female

1 business, and female business set-aside programs, or the Office of
2 Minority Business Enterprise when used in conjunction with the
3 minority business and minority and female business set-aside
4 【program】 programs.

5 e. "Small business" means a business which has its principal
6 place of business in the State, is independently owned and operated,
7 and meets all other qualifications as may be established in
8 accordance with P.L.1987, c.55 (C.52:27H-21.7 et seq.).

9 f. "Small business set-aside contract" means (1) a contract for
10 goods, equipment, construction, or services which is designated as a
11 contract with respect to which bids are invited and accepted only
12 from small businesses, or (2) a portion of a contract when that
13 portion has been so designated.

14 g. "Minority business" means a business which has its principal
15 place of business in the State, is independently owned and operated,
16 and at least 51【%】 percent of which is owned and controlled by
17 persons who are black, Hispanic, Portuguese, Asian-American,
18 American Indian or Alaskan natives.

19 h. "Minority business set-aside contract" means (1) a contract
20 for goods, equipment, construction, or services which is designated
21 as a contract with respect to which bids are invited and accepted
22 only from minority businesses; or (2) a portion of a contract when
23 that portion is so designated.

24 i. "Female business" means a business which has its principal
25 place of business in the State, is independently owned and operated,
26 and at least 51【%】 percent of which is owned and controlled by
27 women.

28 j. "Female business set-aside contract" means (1) a contract for
29 goods, equipment, construction, or services which is designated as a
30 contract with respect to which bids are invited and accepted only
31 from female businesses; or (2) a portion of a contract when that
32 portion is so designated.

33 k. "Minority and female business" means a business which has
34 its principal place of business in the State, is independently owned
35 and operated, and at least 51 percent of which is owned and
36 controlled by a combination of minorities and women.

37 l. "Minority and female business set-aside contract" means (1) a
38 contract for goods, equipment, construction, or services which is
39 designated as a contract with respect to which bids are invited and
40 accepted only from minority and female businesses; or (2) a portion
41 of a contract when that portion is so designated.

42 (cf: P.L.1985, c.384, s.4)

43
44 36. Section 4 of P.L.1983, c.482 (C.52:32-20) is amended to
45 read as follows:

1 4. a. Notwithstanding the provisions of any State bidding or
2 public contracts laws to the contrary, but subject to any supervening
3 federal statutes or rules, contracting agencies, in consultation with
4 the department, may designate a contract, or a portion thereof, for
5 goods, equipment, construction, or services to be awarded by a
6 contracting agency as a small business, female business, minority
7 and female business, or minority business set-aside contract
8 pursuant to the goals and procedures established by this 1985
9 amendatory act, whenever there is a reasonable expectation that
10 bids may be obtained from at least three qualified small businesses,
11 female businesses, minority and female businesses, or minority
12 businesses capable of furnishing the desired goods, equipment,
13 construction, or services at a fair and reasonable price. The
14 designation shall be made prior to the advertisement for bids.

15 b. Where application of the goals and procedures established
16 under this act would jeopardize the State's participation in a
17 program from which the State receives federal funds or other
18 benefits, the contracting agency may, in consultation with the
19 department, withdraw the affected contracts from consideration or
20 calculation.

21 (cf: P.L.1985, c.384, s.5)

22

23 37. Section 5 of P.L.1983, c.482 (C.52:32-21) is amended to
24 read as follows:

25 5. a. There are established the goals that contracting agencies
26 award at least 15【%】 percent of their contracts for small
27 businesses, at least 7【%】 percent of their contracts for minority
28 businesses, at least 3 percent of their contracts for minority and
29 female businesses, and at least 3【%】 percent of their contracts for
30 female businesses. These goals may, where appropriate, be attained
31 by the direct designation of prime contracts for small **【business】**
32 businesses, minority **【business】** businesses, minority and female
33 businesses, or female **【business】** businesses or, in the case of a
34 prime contract not directly designated for a small business, minority
35 business, minority and female business, or female business, by
36 requiring that a portion of such a prime contract be subcontracted to
37 a small business, minority business, minority and female business,
38 or female business. Each contracting agency shall make a good
39 faith effort to attain the goals established in this section.

40 b. The goals established in subsection a. of this section shall be
41 attained independently of each other, and any given contract may be
42 counted for purposes of attaining the small business goal, the
43 minority business goal, the minority and female business goal, or
44 the female business goal, but not towards more than one goal.
45 Pursuant to the goals established by this act, a total of at least
46 25【%】 percent of the State's procurement contracts shall be

1 awarded to small businesses, minority businesses, minority and
2 female businesses, and female businesses.

3 c. For purposes of attaining these goals, contracting agencies
4 shall, when necessary, specifically set aside contracts or portions of
5 contracts for which only small businesses, minority businesses,
6 minority and female businesses, or female businesses may bid.
7 (cf: P.L.1985, c.384, s.6)

8
9 38. Section 1 of P.L.1995, c.39 (C.52:32-22.1) is amended to
10 read as follows:

11 1. a. Whenever any obligation is imposed by law upon a
12 contracting agency to set aside a percentage of State contracts
13 awarded by that agency for minority businesses, minority and
14 women's businesses, or women's businesses, compliance with that
15 requirement shall be calculated based, according to objective and
16 verifiable standards as promulgated pursuant to administrative
17 regulation, upon the dollar value of payments actually made each
18 year to, and received by, minority businesses, minority and
19 women's businesses, and women's businesses pursuant to State
20 contracts awarded by that agency, or subcontracts thereto, compared
21 to the total of all payments made to, and received by, all parties
22 awarded State contracts by that agency.

23 Compliance with any such set-aside requirement shall not be
24 calculated using statements made by bidders with respect to the
25 portion of a contract which the bidder intends to subcontract to
26 minority businesses, minority and women's businesses, or women's
27 businesses.

28 b. As used in this section:

29 "contracting agency" means the State or any board, commission,
30 committee, authority, or agency of the State; and

31 "State contract" means any purchase, contract, or agreement the
32 cost or contract price of which is to be paid, in whole or in part,
33 with or out of State funds.

34 (cf: P.L.1995, c.39, s.1)

35
36 39. Section 8 of P.L.1983, c.482 (C.52:32-24) is amended to
37 read as follows:

38 8. a. The department shall establish reasonable regulations
39 appropriate for controlling the designation of prospective small
40 business bidders, minority business bidders, minority and female
41 business bidders, and female business bidders and shall maintain
42 lists of designated businesses.

43 b. The department shall establish a procedure whereby
44 businesses may request inclusion on appropriate lists for small
45 businesses, minority businesses, minority and female businesses,
46 and female businesses.

1 c. The department shall establish a procedure for annually
2 reviewing the lists and determining whether the businesses on the
3 lists shall continue to be designated as small businesses, minority
4 businesses and female businesses.

5 d. The department shall establish a procedure whereby the
6 designation of a business as a small business, minority business,
7 minority and female business, or female business may be
8 challenged by a third party.

9 e. Any procedures established pursuant to subsections b., c., and
10 d. of this section shall include notice to the business whose
11 designation is at issue and an opportunity for a hearing at the
12 department. The hearing shall not be considered a contested case
13 under the "Administrative Procedure Act," P.L.1968, c.410
14 (C.52:14B-1 et seq.).
15 (cf: P.L.1985, c.384, s.9)

16
17 40. Section 11 of P.L.1983, c.482 (C.52:32-27) is amended to
18 read as follows:

19 11. Each contracting agency shall submit an annual report to the
20 department according to a schedule announced by the department.
21 This report shall include the following information:

22 a. The total dollar value and number of contracts awarded to
23 small businesses, minority businesses, minority and female
24 businesses, and female businesses, including a separate accounting
25 of any set-aside contracts, and the percentage of the total State
26 procurements by the contracting agency the figure of total dollar
27 value and the number of set-asides reflect;

28 b. The types and sizes of businesses receiving set-aside awards
29 and the nature of the purchases and contracts; and

30 c. The efforts made to publicize and promote the program.

31 The department shall receive and analyze the reports submitted
32 by the contracting agencies and, utilizing these data, submit an
33 annual report to the Governor and the Legislature showing the
34 progress being made toward the objectives and goals of this act
35 during the preceding fiscal year.

36 (cf: P.L.1985, c.384, s.12)

37
38 41. Section 12 of P.L.1983, c.482 (C.52:32-28) is amended to
39 read as follows:

40 12. Each contracting agency shall annually develop, in
41 consultation with the department, a plan for achieving its small
42 business, minority business, minority and female business, and
43 female business goals.

44 (cf: P.L. 1985, c.384, s.13)

1 42. Section 14 of P.L.1983, c.482 (C.52:32-30) is amended to
2 read as follows:

3 14. Where the department determines that a business has been
4 classified as a small business, minority business, minority and
5 female business, or female business on the basis of false
6 information knowingly supplied by the business and has been
7 awarded a contract to which it would not otherwise have been
8 entitled under this act, the department shall:

9 a. Assess the business any difference between the contract
10 amount and what the State's cost would have been if the contract
11 had not been awarded in accordance with the provisions of this act;

12 b. In addition to the amount due under subsection a., assess the
13 business a penalty in an amount of not more than 10【%】 percent of
14 the amount of the contract involved;

15 c. Order the business ineligible to transact any business with the
16 State for a period of not less than three months and not more than
17 24 months; and

18 d. Prior to any final determination, assessment, or order under
19 this section, afford the business an opportunity for a contested case
20 hearing pursuant to P.L. 1968, c. 410 (C. 52:14B-1 et seq.).

21 All payments to the State pursuant to subsection a. of this
22 section shall be deposited in the fund out of which the contract
23 involved was awarded. All payments to the State pursuant to
24 subsection b. of this section shall be deposited in the General State
25 Fund.

26 (cf: P.L.1985, c.384, s.14)

27
28 43. Section 2 of P.L.1997, c.349 (C.54:10A-5.29) is amended to
29 read as follows:

30 2. As used in sections 1 through 3 of P.L.1997, c.349
31 (C.54:10A-5.28 through 54:10A-5.30):

32 "Advanced computing" means a technology used in the
33 designing and developing of computing hardware and software,
34 including innovations in designing the full spectrum of hardware
35 from hand-held calculators to super computers, and peripheral
36 equipment.

37 "Advanced materials" means materials with engineered
38 properties created through the development of specialized
39 processing and synthesis technology, including ceramics, high
40 value-added metals, electronic materials, composites, polymers, and
41 biomaterials.

42 "Authority" means the New Jersey Economic Development
43 Authority established pursuant to section 4 of P.L.1974, c.80
44 (C.34:1B-4).

45 "Biotechnology" means the continually expanding body of
46 fundamental knowledge about the functioning of biological systems

1 from the macro level to the molecular and sub-atomic levels, as
2 well as novel products, services, technologies, and sub-technologies
3 developed as a result of insights gained from research advances
4 which add to that body of fundamental knowledge.

5 "Carbon footprint reduction technology" means a technology
6 using equipment for the commercial, institutional, and industrial
7 sectors that: increases energy efficiency, develops and delivers
8 renewable or non-carbon-emitting energy technologies, develops
9 innovative carbon emissions abatement with significant carbon
10 emissions reduction potential, or promotes measurable electricity
11 end-use energy efficiency.

12 "Control," with respect to a corporation, means ownership,
13 directly or indirectly, of stock possessing 80 percent or more of the
14 total combined voting power of all classes of the stock of the
15 corporation entitled to vote; and "control," with respect to a trust,
16 means ownership, directly or indirectly, of 80 percent or more of
17 the beneficial interest in the principal or income of the trust. The
18 ownership of stock in a corporation, of a capital or profits interest in
19 a partnership or association, or of a beneficial interest in a trust
20 shall be determined in accordance with the rules for constructive
21 ownership of stock provided in subsection (c) of section 267 of the
22 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than
23 paragraph (3) of subsection (c) of that section.

24 "Controlled group" means one or more chains of corporations
25 connected through stock ownership with a common parent
26 corporation if stock possessing at least 80 percent of the voting
27 power of all classes of stock of each of the corporations is owned
28 directly or indirectly by one or more of the corporations and the
29 common parent owns directly stock possessing at least 80 percent of
30 the voting power of all classes of stock of at least one of the other
31 corporations.

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

34 "Diverse entrepreneur" means a New Jersey-based business that
35 meets the criteria for a minority business, minority and female
36 business, or female business set forth in section 3 of P.L.1983,
37 c.482 (C.52:32-19).

38 "Electronic device technology" means a technology involving
39 microelectronics, semiconductors, electronic equipment and
40 instrumentation, radio frequency, microwave and millimeter
41 electronics, and optical and optic-electrical devices or data and
42 digital communications and imaging devices.

43 "Information technology" means software publishing, motion
44 picture and video production, television production and post-
45 production services, telecommunications, data processing, hosting
46 and related services, custom computer programming services,

1 computer system design, computer facilities management services,
2 other computer related services, and computer training.

3 "Life sciences" means the production of medical equipment,
4 ophthalmic goods, medical or dental instruments, diagnostic
5 substances, biopharmaceutical products, or physical and biological
6 research.

7 "Medical device technology" means a technology involving any
8 medical equipment or product (other than a pharmaceutical product)
9 that has therapeutic value, diagnostic value, or both, and is
10 regulated by the federal Food and Drug Administration.

11 "Mobile communications technology" means a technology
12 involving the functionality and reliability of the transmission of
13 voice and multimedia data using a communication infrastructure via
14 a computer or a mobile device that shall include, but not be limited
15 to, smartphones, electronic books and tablets, digital audio players,
16 motor vehicle electronics, home entertainment systems, and other
17 wireless appliances, without having connected to any physical or
18 fixed link.

19 "New Jersey-based business" means a company with fewer than
20 150 employees, of whom at least 75 percent are filling a position in
21 New Jersey, that is doing business, employing or owning capital or
22 property, or maintaining an office in this State.

23 "New Jersey emerging technology business" means a company
24 with fewer than 150 employees, of whom at least 75 percent are
25 filling a position in New Jersey, that is doing business, employing
26 or owning capital or property, or maintaining an office in this State
27 and: has qualified research expenses paid or incurred for research
28 conducted in this State; conducts pilot scale manufacturing in this
29 State; or conducts technology commercialization in this State in the
30 fields of advanced computing, advanced materials, biotechnology,
31 carbon footprint reduction technology, electronic device
32 technology, information technology, life sciences, medical device
33 technology, mobile communications technology, or renewable
34 energy technology.

35 "New Jersey emerging technology business holding company"
36 means any corporation, association, firm, partnership, trust, or other
37 form of business organization, but not a natural person, which
38 directly or indirectly owns, has the power or right to control, or has
39 the power to vote a controlling share of the outstanding voting
40 securities of a corporation or other form of a New Jersey emerging
41 technology business.

42 "Partnership" means a syndicate, group, pool, joint venture, or
43 other unincorporated organization through or by means of which
44 any business, financial operation, or venture is carried on and which
45 is not a trust or estate, a corporation, or a sole proprietorship.

1 "Pilot scale manufacturing" means the design, construction, and
2 testing of preproduction prototypes and models in the fields of
3 advanced computing, advanced materials, biotechnology, carbon
4 footprint reduction technology electronic device technology,
5 information technology, life sciences, medical device technology,
6 mobile communications technology, and renewable energy
7 technology, other than for commercial sale, excluding sales of
8 prototypes or sales for market testing if the total gross receipts, as
9 calculated in the manner provided in section 6 of P.L.1945, c.162
10 (C.54:10A-6), from the sales of the product, service, or process do
11 not exceed \$1,000,000.

12 "Qualified investment" means the non-refundable transfer of
13 cash to a New Jersey emerging technology business or to a New
14 Jersey emerging technology business holding company by a
15 taxpayer that is not a related person of the New Jersey emerging
16 technology business or the New Jersey emerging technology
17 business holding company, the transfer of which is in connection
18 with either: a transaction between or among the taxpayer and the
19 New Jersey emerging technology business or the New Jersey
20 emerging technology holding company or both in exchange for
21 stock, interests in partnerships or joint ventures, licenses (exclusive
22 or non-exclusive), rights to use technology, marketing rights,
23 warrants, options, or any items similar to those included herein,
24 including, but not limited to, options or rights to acquire any of the
25 items included herein or a purchase, production, or research
26 agreement between or among the taxpayer and the New Jersey
27 emerging technology business or the New Jersey emerging
28 technology holding company or both. "Qualified investment" also
29 means the non-refundable transfer of cash or irrevocable contractual
30 commitment to a qualified venture fund.

31 "Qualified research expenses" means qualified research
32 expenses, as defined in section 41 of the federal Internal Revenue
33 Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992, in the
34 fields of advanced computing, advanced materials, biotechnology,
35 carbon footprint reduction technology, electronic device
36 technology, information technology, life sciences, medical device
37 technology, mobile communications technology, or renewable
38 energy technology.

39 "Qualified venture fund" means a venture fund required by
40 contract to invest a minimum of 50 percent of its funds in New
41 Jersey-based businesses that the authority, in its sole discretion,
42 based upon the qualified venture fund's investment history, if any,
43 its private placement memorandum and other relevant information,
44 has determined has the capacity to make the minimum investment.

45 "Related person" means:

1 a corporation, partnership, association, or trust controlled by the
2 taxpayer;

3 an individual, corporation, partnership, association, or trust that
4 is in the control of the taxpayer;

5 a corporation, partnership, association, or trust controlled by an
6 individual, corporation, partnership, association, or trust that is in
7 the control of the taxpayer; or

8 a member of the same controlled group as the taxpayer.

9 "Renewable energy technology" means a technology involving
10 the generation of electricity from solar energy; wind energy; wave
11 or tidal action; geothermal energy; the combustion of gas from the
12 anaerobic digestion of food waste and sewage sludge at a biomass
13 generating facility; the combustion of methane gas captured from a
14 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
15 digester gas, biomass gas, or other renewable fuel, but not powered
16 by a fossil fuel.

17 "Tax year" means the fiscal or calendar accounting period of a
18 taxpayer.

19 "Venture fund" means a partnership, corporation, trust, or limited
20 liability company that invests cash in a business during the early or
21 expansion stages of a business in exchange for an equity stake in
22 the business in, which the investment is made. Venture firm may
23 include a venture capital fund, a family office fund, or a corporate
24 investor fund, provided that a professional manager administers the
25 venture firm.

26 "Verified transfer of funds" means a non-refundable transfer of
27 funds equal to 100 percent of the taxpayer's qualified investment in
28 the New Jersey emerging technology business holding company to a
29 New Jersey emerging technology business by the New Jersey
30 emerging technology business holding company that is
31 accompanied by documentation, as required by the New Jersey
32 Economic Development Authority, which provides proof of a cash
33 transaction originating with a taxpayer and concluding with a New
34 Jersey emerging technology business, provided that the transactions
35 from origin to destination occur within the same tax year.

36 The definitions of "advanced computing," "advanced materials,"
37 "biotechnology," "carbon footprint reduction technology,"
38 "electronic device technology," "information technology," "life
39 sciences," "medical device technology," "mobile communications
40 technology," "New Jersey emerging technology business," "pilot
41 scale manufacturing," and "renewable energy technology" may be
42 modified by regulation to conform to definitions in other programs
43 administered by the authority.

44 (cf: P.L.2025, c.71, s.1)

1 44. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to read
2 as follows:

3 4. a. (1) A taxpayer, upon approval of the taxpayer's
4 application therefor by the New Jersey Economic Development
5 Authority, and in consultation with the director, shall be allowed a
6 credit against the tax otherwise due for the taxable year in the
7 taxable year in which the taxpayer applied, under the "New Jersey
8 Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal
9 to 35 percent of the qualified investment made by the taxpayer in a
10 New Jersey emerging technology business, in a New Jersey
11 emerging technology business holding company that makes a
12 verified transfer of funds to a New Jersey emerging technology
13 business, or in a qualified venture fund; provided, however, a
14 taxpayer may be allowed a tax credit in an amount equal to 40
15 percent of the qualified investment if the taxpayer satisfies one of
16 the requirements set forth in paragraph (2) of this subsection. The
17 value of tax credits allowed to a taxpayer pursuant to this section
18 shall not exceed \$500,000 for each qualified investment made by
19 the taxpayer.

20 (2) Subject to the limits established in paragraph (1) of this
21 subsection, the New Jersey Economic Development Authority, in
22 consultation with the director, shall increase the amount of a tax
23 credit allowed pursuant to this section by five percent if the
24 taxpayer makes a qualified investment in a New Jersey emerging
25 technology business, in a New Jersey emerging technology business
26 holding company that makes a verified transfer of funds to a New
27 Jersey emerging technology business, or in a qualified venture fund,
28 if the New Jersey emerging technology business is either located in
29 a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1, or a
30 low-income community as defined in subparagraph (e) of 26 U.S.C.
31 s.45D; or

32 certified by the State as a minority business or a women's
33 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
34 in the case of a qualified venture fund, if the qualified venture fund
35 commits by contract to invest 50 percent of its funds in diverse
36 entrepreneurs.

37 b. The amount of the credit allowed pursuant to this section
38 shall be applied against the tax otherwise due under the "New
39 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other
40 credits and payments. If the credit exceeds the amount of tax
41 liability otherwise due, that amount of excess shall be an
42 overpayment for the purposes of N.J.S.54A:9-7, provided, however,
43 that subsection (f) of N.J.S.54A:9-7 shall not apply.

44 c. (1) A partnership shall not be allowed a credit under this
45 section directly, but the amount of credit of a taxpayer in respect of
46 a distributive share of partnership income under the "New Jersey

1 Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined
2 by allocating to the taxpayer that proportion of the credit acquired
3 by the partnership that is equal to the taxpayer's share, whether or
4 not distributed, of the total distributive income or gain of the
5 partnership for its taxable year ending within or with the taxpayer's
6 taxable year. For the purposes of subsection b. of this section, the
7 amount of tax liability that would be otherwise due of a taxpayer is
8 that proportion of the total liability of the taxpayer that the
9 taxpayer's share of the partnership income or gain included in gross
10 income bears to the total gross income of the taxpayer.

11 (2) The credit for a corporation that has made a valid election as
12 a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173
13 (C.54:10A-5.22) may be applied by the shareholders of the S
14 corporation against the tax liability otherwise due under the "New
15 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., provided that
16 the amount of credit that may be used by a shareholder of the S
17 corporation shall be determined by allocating to each shareholder of
18 the S corporation that proportion of the tax credit of the S
19 corporation that is equal to the shareholder's proportionate share of
20 the S corporation, whether or not distributed, of the total
21 distributive income or gain of the S corporation for its tax period
22 ending with or within the shareholder's tax period, and the credit
23 may be applied by the shareholders against the tax liability
24 otherwise due pursuant to the "New Jersey Gross Income Tax Act,"
25 N.J.S.54A:1-1 et seq.

26 d. (1) Except as provided in paragraph (2) of this subsection,
27 the Chief Executive Officer of the New Jersey Economic
28 Development Authority, in consultation with the director, shall
29 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
30 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
31 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
32 5.28 through 54:10A-5.30) and this section, including, but not
33 limited to: examples of and the determination of qualified
34 investments of which applicants shall provide documentation with
35 their tax credit application, the promulgation of procedures and
36 forms necessary to apply for a credit, provisions for recapture in the
37 event a taxpayer receives a credit on the basis of its commitment to
38 transfer cash to a qualified venture fund and it does not fund its
39 commitment, and provisions for credit applicants to be charged an
40 initial application fee and ongoing service fees to cover the
41 administrative costs related to the credit.

42 (2) Notwithstanding the provisions of the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
44 contrary, the Chief Executive Officer of the New Jersey Economic
45 Development Authority may adopt, immediately upon filing with
46 the Office of Administrative Law, rules and regulations that the

1 chief executive officer deems necessary to implement the provisions
2 of this section, as amended by P.L.2025, c.71, which regulations
3 shall be effective for a period not to exceed 365 days from the date
4 of the filing. The chief executive officer shall thereafter amend,
5 adopt, or readopt the regulations in accordance with the
6 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

7 (3) The amount of credits approved by the Chief Executive
8 Officer of the New Jersey Economic Development Authority and
9 the Director of the Division of Taxation in the Department of the
10 Treasury, pursuant to subsection a. of this section and pursuant to
11 section 3 of P.L.1997, c.349 (C.54:10A-5.30), shall not exceed a
12 cumulative total of \$25,000,000, plus the value of any unused tax
13 benefits from the immediately preceding State fiscal year, as
14 determined pursuant to section 1 of P.L.1997, c.334 (C.34:1B-
15 7.42a), in any calendar year, to apply against the tax imposed
16 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and the tax
17 imposed pursuant to the "New Jersey Gross Income Tax Act,"
18 N.J.S.54A:1-1 et seq. If the cumulative amount of credits allowed
19 to taxpayers in a calendar year exceeds the amount of credits
20 available in that year, then taxpayers who have first applied for and
21 have not been allowed a credit amount for that reason shall be
22 allowed, in the order in which they have submitted an application,
23 the amount of the tax credit on the first day of the next succeeding
24 calendar year in which tax credits under this section and section 3
25 of P.L.1997, c.349 (C.54:10A-5.30) are not in excess of the amount
26 of credits available.

27 e. As used in this section:

28 "Advanced computing" means a technology used in the
29 designing and developing of computing hardware and software,
30 including innovations in designing the full spectrum of hardware
31 from hand-held calculators to super computers, and peripheral
32 equipment.

33 "Advanced materials" means materials with engineered
34 properties created through the development of specialized
35 processing and synthesis technology, including ceramics, high
36 value-added metals, electronic materials, composites, polymers, and
37 biomaterials.

38 "Authority" means the New Jersey Economic Development
39 Authority established pursuant to section 4 of P.L.1974, c.80
40 (C.34:1B-4). "Biotechnology" means the continually expanding
41 body of fundamental knowledge about the functioning of biological
42 systems from the macro level to the molecular and sub-atomic
43 levels, as well as novel products, services, technologies, and sub-
44 technologies developed as a result of insights gained from research
45 advances which add to that body of fundamental knowledge.

1 "Carbon footprint reduction technology" means a technology
2 using equipment for the commercial, institutional, and industrial
3 sectors that: increases energy efficiency, develops and delivers
4 renewable or non-carbon-emitting energy technologies, develops
5 innovative carbon emissions abatement with significant carbon
6 emissions reduction potential, or promotes measurable electricity
7 end-use energy efficiency.

8 "Control," with respect to a corporation, means ownership,
9 directly or indirectly, of stock possessing 80 percent or more of the
10 total combined voting power of all classes of the stock of the
11 corporation entitled to vote; and "control," with respect to a trust,
12 means ownership, directly or indirectly, of 80 percent or more of
13 the beneficial interest in the principal or income of the trust. The
14 ownership of stock in a corporation, of a capital or profits interest in
15 a partnership or association or of a beneficial interest in a trust shall
16 be determined in accordance with the rules for constructive
17 ownership of stock provided in subsection (c) of section 267 of the
18 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than
19 paragraph (3) of subsection (c) of that section.

20 "Controlled group" means one or more chains of corporations
21 connected through stock ownership with a common parent
22 corporation if stock possessing at least 80 percent of the voting
23 power of all classes of stock of each of the corporations is owned
24 directly or indirectly by one or more of the corporations and the
25 common parent owns directly stock possessing at least 80 percent of
26 the voting power of all classes of stock of at least one of the other
27 corporations.

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

30 "Diverse entrepreneur" means a New Jersey-based business that
31 meets the criteria for a minority business, minority and female
32 business, or female business set forth in section 3 of P.L.1983,
33 c.482 (C.52:32-19).

34 "Electronic device technology" means a technology involving
35 microelectronics, semiconductors, electronic equipment and
36 instrumentation, radio frequency, microwave and millimeter
37 electronics, and optical and optic-electrical devices or data and
38 digital communications and imaging devices.

39 "Information technology" means software publishing, motion
40 picture and video production, television production and post-
41 production services, telecommunications, data processing, hosting
42 and related services, custom computer programming services,
43 computer system design, computer facilities management services,
44 other computer related services, and computer training.

45 "Life sciences" means the production of medical equipment,
46 ophthalmic goods, medical or dental instruments, diagnostic

1 substances, biopharmaceutical products, or physical and biological
2 research.

3 "Medical device technology" means a technology involving any
4 medical equipment or product (other than a pharmaceutical product)
5 that has therapeutic value, diagnostic value, or both, and is
6 regulated by the federal Food and Drug Administration.

7 "Mobile communications technology" means a technology
8 involving the functionality and reliability of the transmission of
9 voice and multimedia data using a communication infrastructure via
10 a computer or a mobile device, that shall include, but not be limited
11 to, smartphones, electronic books and tablets, digital audio players,
12 motor vehicle electronics, home entertainment systems, and other
13 wireless appliances, without having connected to any physical or
14 fixed link.

15 "New Jersey-based business" means a company with fewer than
16 150 employees, of whom at least 75 percent are filling a position in
17 New Jersey, that is doing business, employing or owning capital or
18 property, or maintaining an office in this State.

19 "New Jersey emerging technology business" means a company
20 with fewer than 150 employees, of whom at least 75 percent are
21 filling a position in New Jersey, that is doing business, employing
22 or owning capital or property, or maintaining an office in this State
23 and: has qualified research expenses paid or incurred for research
24 conducted in this State; conducts pilot scale manufacturing in this
25 State; or conducts technology commercialization in this State in the
26 fields of advanced computing, advanced materials, biotechnology,
27 carbon footprint reduction technology, electronic device
28 technology, information technology, life sciences, medical device
29 technology, mobile communications technology, or renewable
30 energy technology.

31 "New Jersey emerging technology business holding company"
32 means any corporation, association, firm, partnership, trust, or other
33 form of business organization, but not a natural person, which
34 directly or indirectly owns, has the power or right to control, or has
35 the power to vote a controlling share of the outstanding voting
36 securities of a corporation or other form of a New Jersey emerging
37 technology business.

38 "Partnership" means a syndicate, group, pool, joint venture, or
39 other unincorporated organization through or by means of which
40 any business, financial operation, or venture is carried on and which
41 is not a trust or estate, a corporation, or a sole proprietorship.

42 "Pilot scale manufacturing" means design, construction, and
43 testing of preproduction prototypes and models in the fields of
44 advanced computing, advanced materials, biotechnology, carbon
45 footprint reduction technology electronic device technology,
46 information technology, life sciences, medical device technology,

1 mobile communications technology, or renewable energy
2 technology, other than for commercial sale, excluding sales of
3 prototypes or sales for market testing if the total gross receipts, as
4 calculated in the manner provided in section 6 of P.L.1945, c.162
5 (C.54:10A-6), from the sales of the product, service, or process do
6 not exceed \$1,000,000.

7 "Qualified investment" means the non-refundable transfer of
8 cash to a New Jersey emerging technology business or to a New
9 Jersey emerging technology business holding company by a
10 taxpayer that is not a related person of the New Jersey emerging
11 technology business or the New Jersey emerging technology
12 business holding company, the transfer of which is in connection
13 with either: a transaction between or among the taxpayer and the
14 New Jersey emerging technology business or the New Jersey
15 emerging technology holding company or both in exchange for
16 stock, interests in partnerships or joint ventures, licenses (exclusive
17 or non-exclusive), rights to use technology, marketing rights,
18 warrants, options, or any items similar to those included herein,
19 including, but not limited to, options or rights to acquire any of the
20 items included herein; or a purchase, production, or research
21 agreement between or among the taxpayer and the New Jersey
22 emerging technology business or the New Jersey emerging
23 technology holding company or both. "Qualified investment" also
24 means the non-refundable transfer of cash or irrevocable contractual
25 commitment to transfer cash to a qualified venture fund.

26 "Qualified research expenses" means qualified research
27 expenses, as defined in section 41 of the federal Internal Revenue
28 Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992, in the
29 fields of advanced computing, advanced materials, biotechnology,
30 electronic device technology, information technology, life sciences,
31 medical device technology, mobile communications technology, or
32 renewable energy technology.

33 "Qualified venture fund" means a venture fund required by
34 contract to invest a minimum of 50 percent of its funds in New
35 Jersey-based businesses that the authority, in its sole discretion,
36 based upon the qualified venture fund's investment history, if any,
37 its private placement memorandum and other relevant information,
38 has determined has the capacity to make the minimum investment.

39 "Related person" means:

40 a corporation, partnership, association, or trust controlled by the
41 taxpayer;

42 an individual, corporation, partnership, association, or trust that
43 is in the control of the taxpayer;

44 a corporation, partnership, association, or trust controlled by an
45 individual, corporation, partnership, association, or trust that is in
46 the control of the taxpayer; or

1 a member of the same controlled group as the taxpayer.

2 "Renewable energy technology" means a technology involving
3 the generation of electricity from solar energy; wind energy; wave
4 or tidal action; geothermal energy; the combustion of gas from the
5 anaerobic digestion of food waste and sewage sludge at a biomass
6 generating facility; the combustion of methane gas captured from a
7 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
8 digester gas, biomass gas, or other renewable fuel but not powered
9 by a fossil fuel.

10 "Venture fund" means a partnership, corporation, trust, or limited
11 liability company that invests cash in a business during the early or
12 expansion stages of a business in exchange for an equity stake in
13 the business in which the investment is made. Venture firm may
14 include a venture capital fund, a family office fund, or a corporate
15 investor fund, provided that a professional manager administers the
16 venture firm.

17 "Verified transfer of funds" means a non-refundable transfer of
18 funds equal to 100 percent of the taxpayer's qualified investment in
19 the New Jersey emerging technology business holding company to a
20 New Jersey emerging technology business by the New Jersey
21 emerging technology business holding company that is
22 accompanied by documentation, as required by the New Jersey
23 Economic Development Authority, which provides proof of a cash
24 transaction originating with a taxpayer and concluding with a New
25 Jersey emerging technology business, provided that the transactions
26 from origin to destination occur within the same taxable year.

27 The definitions of "advanced computing," "advanced materials,"
28 "biotechnology," "carbon footprint reduction technology,"
29 "electronic device technology," "information technology," "life
30 sciences," "medical device technology," "mobile communications
31 technology," "New Jersey emerging technology business," "pilot
32 scale manufacturing," and "renewable energy technology" may be
33 modified by regulation to conform to definitions in other programs
34 administered by the authority.

35 (cf: P.L.2025, c.71, s.3)

36

37 45. This act shall take effect on the 90th day following the date
38 of enactment.

39

40

41

STATEMENT

42

43 This bill makes any business that is owned by a certain
44 combination of women and minorities eligible for certain business
45 certifications and set-aside programs.

1 Under current law, the Division of Revenue and Enterprise
2 Services in the Department of the Treasury is permitted to offer
3 certain certifications to businesses, including a minority business
4 certification and a women's business certification. Additionally,
5 current law permits certain entities, and requires other certain
6 entities, to designate a contract, or a portion thereof, as certain set-
7 aside contracts, including women's business set aside contracts or
8 minority business set-aside contracts, under certain circumstances.

9 This bill expands the available types of business certifications
10 and types of set-aside programs to include minority and women's
11 businesses or minority and female businesses, where applicable.
12 Under the bill, a business with at least 51 percent of the ownership
13 interest being held by a combination of minorities and women may
14 qualify for a business certification or set-aside program, or both.