

August 23, 2019

**SENATE BILL NO. 3901
(First Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 3901 (First Reprint) with my recommendations for reconsideration.

New Jersey's tax incentive programs are some of the most expensive and least productive in the nation. Between 2005 and 2017, EDA approved nearly \$11 billion in tax credits for 1,000 projects. During that time, the Grow New Jersey Assistance Program ("Grow NJ") and the Economic Redevelopment and Growth Grant Program ("ERGG") were the largest incentives programs in the Northeast and the fourth most expensive programs in the country. A McKinsey & Company study from 2017 found that New Jersey spends \$162,000 in economic incentives for each job created, while Massachusetts spends only \$22,000 per job created. The return on investment the State achieves through these programs is unacceptable and the ability for well-connected interests to exploit the many loopholes of the programs is shameful.

In light of these demonstrated weaknesses, on my fourth day in office, I signed Executive Order No. 3 (2018), which directed the Office of the State Comptroller ("Comptroller") to conduct a complete performance audit of Grow NJ and ERGG, and predecessor programs, from 2010 onward. Executive Order No. 3 (2018) instructed the Comptroller to compare the actual economic benefits realized and the number of new jobs actually created from the incentives awarded against the benefits and jobs that applicants promised at the time of their application; analyze the types of jobs created to ensure that the programs promoted good-paying jobs; review the decision-making process of the Economic Development Authority ("EDA") regarding the acceptance of

applications; and examine the application process for tax incentive awards.

On January 9, 2019, the Comptroller released its report laden with troubling findings. The Comptroller's report found that "[k]ey internal controls were lacking or nonexistent for the monitoring and oversight of recipient performance", "EDA was, thus, prevented from determining whether the incented jobs were actually created or retained or from ensuring that the awardees had satisfied the incentive program requirements for these jobs", and "the agency lacks adequate policies, procedures, and controls to provide accurate and reliable program results." Specifically, the Comptroller analyzed a sample of approximately 10 percent of the EDA's certified projects that were projected to create or retain roughly 15,000 jobs, and found that nearly 3,000 of these jobs could not be substantiated as being created or retained. Further, the Comptroller noted that incentive awards were "improperly awarded, overstated, and overpaid," and specifically noted five commercial projects where the EDA failed to comply with the applicable statute and regulations and improperly awarded \$179 million in incentives. Perhaps the most disturbing implication of the Comptroller's report was that the public might never realize the true magnitude of the fraud and mismanagement rampant in the programs because significant deficiencies in the annual reporting data elements, combined with EDA's failure to properly analyze tax credit recipient performance data and obtain detailed job reports, prevented the Comptroller from determining whether or not award recipients had satisfied all program requirements and award agreement terms.

The Comptroller's troubling review built upon prior evaluations conducted by the Edward J. Bloustein School of

Planning and Public Policy at Rutgers University ("Bloustein") and the State Auditor, a constitutional officer appointed by the New Jersey Legislature and administratively placed within the Office of Legislative Services. The Bloustein report, which analyzed 227 awards approved for 224 companies between December 2013 and August 2017 under the Grow NJ program, found that "[r]edundancies in the Grow NJ base and bonus award structure are potentially providing more generous incentives than intended by the statute." The Legislature's independent auditor further found that one of the auditor's sampled projects yielded a net "benefit" to the State of negative \$32.6 million, when accounting for the fact that the State would have collected the corporation business tax revenue realized from the project notwithstanding its Grow NJ award.

After reviewing the troubling findings of the various audit reports, I signed Executive Order No. 52 (2019), establishing the Task Force on EDA's Tax Incentives (the "Task Force"). As the Executive Order made clear, "the mission of the Task Force is to conduct an in-depth examination of the deficiencies in the design, implementation, and oversight of the Grow NJ and ERGG programs, including those identified in the Comptroller's performance audit, to inform consideration regarding the planning, development, and execution of future iterations of these or similar tax incentive programs." The Task Force released its first report on June 17, 2019. Among the most damning revelations in the Task Force's first report was that "special interests – in the form of a law and lobbying firm and the clients on whose behalf it apparently operated – appear to have had a significant impact on the design of the Grow NJ statute as amended by the Economic Opportunity Act of 2013 ("EOA 2013") and its implementing regulations." One

example of this was the inclusion of a provision that allowed companies to potentially receive large Grow NJ awards calculated using taxes that those companies were already exempted from, meaning the awards were not guaranteed to provide a net positive benefit to the State. Additionally, the Task Force found clear deficiencies in the EDA's evaluation of applicants' submissions of alternative out-of-state sites.

Earlier this month, Politico New Jersey published a report bringing to light how the special interests involved in drafting EOA 2013 stifled plans to erect a grocery store in Camden, a known food desert. See "How tax incentive law may have killed a much-needed supermarket in Camden," Politico New Jersey, August 7, 2019 <https://www.politico.com/states/new-jersey/story/2019/08/07/how-tax-incentive-law-may-have-killed-a-much-needed-supermarket-in-camden-1124640>. Around the time EOA 2013 was going through the Legislature, two developers had expressed interest in bringing a grocery store to Camden as part of mixed-use development projects. According to the report, language was added to EOA 2013 that met the exact specifications of only one of the proposed projects. Ultimately, neither grocery store was built.

In light of the myriad and well-documented issues with the current tax incentive programs, I cannot in good conscience approve this bill. Grow NJ and ERGG are demonstrably flawed. Economic Development Authority CEO Tim Sullivan acknowledges these flaws and welcomes the opportunity to improve these programs, stating in testimony before the Senate Select Committee on Economic Growth Strategies, "The audit ordered by Governor Murphy and the initial report from the Task Force on EDA Incentives have identified critical areas of needed improvement within the EDA. The report from the Task Force is eye-opening, and it only

strengthens the already strong case for adopting Governor Murphy's proposed new generation of economic development tools. This report, along with the report issued earlier this year by the Office of the State Comptroller, is a roadmap to significantly improving the administration of EDA's incentive programs. We have no higher obligation as an organization than to be stewards of taxpayer resources, and we are committed to being best-in-class when it comes to accountability and transparency . . . We are committed to fixing what needs fixing."

Consequently, I am recommending that the existing incentive programs be replaced by a series of business incentive programs that are innovative and focus on initiatives that value communities and corporations, programs that encourage new entrepreneurs, people of color, women and veterans, and controls that safeguard taxpayer money. Nearly nine months ago, I delivered drafts of the programs set forth in this conditional veto to my partners in the Legislature with the hope that they would evaluate them and then come to the table to negotiate. Unfortunately, the Legislature failed to act on these proposals, and instead waited until the last minute before inexplicably voting to extend these programs without any reforms.

The programs I am recommending refocus our State's economy to one based on innovation. The five programs would provide a maximum of \$400 million in annual incentives to create jobs, renew communities, and welcome new businesses to our State all while providing the oversight that the prior programs desperately lacked. The NJ Forward program will create jobs in targeted high-growth and high-wage industries, specifically directed at the State's most high-need census tracts. The program incentivizes local hiring, partnerships with the State's research universities,

and transit-oriented development. NJ Aspire will serve as a catalyst for neighborhood-based investments by allowing developers to turn vacant and underutilized properties into job-creating development opportunities. The program will be run in competitive rounds twice per year and provides bonus incentives for food desert alleviation, health care center creation, transit-oriented development, electric vehicle charging stations, and the creation of incubators and shared workspaces. These programs will work in tandem with competitive Brownfields Redevelopment and Historic Preservation Tax Credits, which will breathe fresh life into contaminated sites and old buildings. Lastly, my recommendation includes the Innovation Evergreen Fund, which will pair the proceeds from the sale of future tax credits with private venture capital funds, so we can make strategic joint investments directly in promising startups. These five programs, in tandem, will help create a stronger and fairer economy for the people of New Jersey.

I ran for Governor and was elected on the promise to transform the State's incentive programs so that the programs work for all New Jerseyans and not just connected political interests. That is a promise I am keeping today.

Therefore, I herewith return Senate Bill No. 3901 (First Reprint) and recommend that it be amended as follows:

<u>Page 2, Title, Lines 1-3:</u>	Delete in their entirety
<u>Page 2, Line 4:</u>	Insert "AN ACT providing tax credits to incentivize construction and improvement of commercial and residential properties and to create and retain full-time jobs in the State, supplementing Title 34 of the Revised Statutes, and amending P.L.2009, c.90 and P.L.2011, c.149."
<u>Page 2, Line 7:</u>	Insert "1. (New section) Sections 1 through 18 of P.L. , c. (C.)

(pending before the Legislature as this bill) shall be known and may be cited as the "New Jersey Aspire Act."

2. (New section) As used in sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Board" means the Board of the New Jersey Economic Development Authority appointed pursuant to subsection b. of section 4 of P.L.1974, c.80 (C.34:1B-4).

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

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

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

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

"Commercial project" means a building, which is predominantly commercial and contains 100,000 or more square feet of office, retail, or industrial space for purchase or lease and may include a parking component.

"Developer" means a person who enters or proposes to enter into an incentive grant agreement pursuant to the provisions of section 7 of P.L. , c. (C.), including, but not limited, to a lender that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project.

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

"Eligibility period" means the 10-year period specified in an incentive grant agreement during which a developer may claim a tax credit under the program.

"Food delivery source" means access to nutritious foods, such as fresh fruits and vegetables, through grocery operators, including, but not limited to a full-service supermarket or grocery store, and other healthy food

retailers of at least 10,000 square feet, including, but not limited to, a prepared food establishment selling primarily nutritious ready-to-serve meals.

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, through supermarkets and grocery stores, and which has been designated as a food desert community pursuant to subsection b. of section 17 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Health care or health services center" means an establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners.

"Incentive area" means an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a Designated Center, or a Highland Designated Center, provided an area designated as Planning Area 2 (Suburban), a Designated Center, or a Highland Designated Center shall be located within a one-half mile radius of the midpoint, with bicycle and pedestrian connectivity, of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations, or a high frequency bus stop as certified by the New Jersey Transit Corporation.

"Incentive grant" means an award of tax credits to reimburse a developer for all or a portion of the project financing gap of a redevelopment project pursuant to the provisions of sections 1 through 18 of P.L. , c. (C.)

(pending before the Legislature as this bill).

"Incentive grant agreement" means the contract executed between a developer and the authority pursuant to section 7 of P.L. , c. (C.) (pending before the Legislature as this bill), which sets forth the terms and conditions under which the developer may receive the incentive grants authorized pursuant to the provisions of sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

encourage long-term cost reduction.

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

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

"Program" means the New Jersey Aspire Program established by section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Project cost" means the costs incurred in connection with a redevelopment project by a developer until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements,

including ancillary infrastructure projects. The cost of acquisition of land or fees associated with the application or administration of a grant under sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill) shall not constitute a project cost.

"Project financing gap" means the part of the total project cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis.

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

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

"Redevelopment project" means a specific construction project or improvement undertaken by a developer, owner or tenant, or both, and any ancillary infrastructure project. A redevelopment project may involve construction or improvement upon lands, buildings,

improvements, or real and personal property, or any interest therein, including lands under water, riparian rights, space rights, and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved.

"Residential project" means a redevelopment project that is predominantly residential and may include a parking component.

"Total project cost" means the project cost and the cost of acquisition of land for the redevelopment project.

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

"Workforce housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income of more than 80 percent, but less than 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

3. (New section) The New Jersey Aspire Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program to encourage redevelopment projects in the incentive area through the provision of incentive grants

to reimburse developers for certain project financing gap costs. The board may approve the award of an incentive grant to a developer upon application to the authority pursuant to sections 5 and 6 of P.L. , c. (C.) (pending before the Legislature as this bill). The annual combined value of all tax credits approved by the authority pursuant to the "New Jersey Aspire Act," sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill), shall not exceed \$100,000,000, except that the annual value of all tax credits approved by the authority pursuant to that act may exceed \$100,000,000 in a calendar year if the board, subject to the approval of the State Treasurer, determines the tax credits to be reasonable, justifiable, and appropriate; provided, however, the combined value of all tax credits approved by the authority under the "New Jersey Aspire Act," sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill), and the "New Jersey Forward Program Act," sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill), shall not exceed \$300,000,000 in a calendar year.

4. (New section) a. A developer shall be eligible to receive an incentive grant for a redevelopment project only if the developer demonstrates to the authority at the time of application that:

(1) without the incentive grant, the redevelopment project is not economically feasible;

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

(3) the redevelopment project is located in the incentive area;

(4) the developer has not commenced any construction at the site of the redevelopment project prior to submitting an application, unless the authority determines that the redevelopment project would not be completed otherwise or, in the event the redevelopment project is to be undertaken in phases, the requested incentive grant covers only phases for which construction has not yet commenced;

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

(6) the redevelopment project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.203 (C.34:1B-5.4);

(7) each worker employed or subcontractor of a developer working at a redevelopment project, 80 percent or more of which is operated by the developer, shall be paid not less than \$15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and

(8) during the eligibility period, each worker employed to perform construction work or building services work at the redevelopment project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the redevelopment project, or the aggregate of all redevelopment projects approved for an award under the program, constitute a lease of more than 55 percent of a building owned or controlled by the developer, these requirements shall apply to the entire building.

b. In addition to the requirements set forth in subsection a. of this section, for a commercial project to qualify for an incentive grant, the developer shall have an equity participation of at least 20 percent of the total project cost.

c. In addition to the requirements set forth in subsection a. of this section, for a residential project to qualify for an incentive grant, the residential project shall:

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

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

(3) have a total project cost of at least \$5,000,000 if the project is in a qualified incentive tract.

d. In addition to the requirements set forth in subsections a. and c. of this section, for a residential project consisting of newly-constructed residential units to qualify for an incentive grant, the developer shall reserve at least 20 percent, but not more than 50 percent, of the residential units constructed for occupancy by low- and moderate-income households with affordability controls as required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.), unless the municipality in which the property is located has received substantive certification from the council and such a reservation is not required under the approved affordable housing plan, or the municipality has been given a judgment of repose or a judgment of compliance by the court, and such a reservation is not required

under the approved affordable housing plan. The developer shall reserve at least 50 percent of housing not constructed for occupancy by low- and moderate-income households for workforce housing.

5. (New section) a. Prior to July 1, 2024, a developer seeking an incentive grant shall submit an application to the authority and, in the case of a residential project, to the authority and the agency, in a form and manner prescribed in regulations adopted by the authority, in consultation with the agency, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall accept applications for incentive grants during the grant periods established pursuant to section 6 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The authority shall not consider an application for a commercial project unless the developer submits a letter evidencing support for the commercial project from the governing body of the municipality in which the commercial project is located with the application.

c. The authority shall review the project cost, evaluate and validate the project financing gap estimated by the developer, and, in the case of a commercial or mixed-use project, conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the commercial or mixed-use project will result in net benefits to the State, provided that the net benefit analysis shall not apply to capital investment for a residential project, a food delivery source or a health care or health services center with a minimum of 10,000 square feet of space devoted to health care or health services that is located in a municipality with a Municipal Revitalization Index score of

50 or lower lacking adequate access, as determined by the Commissioner of Health, to health care or health services. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis concerning the developer's application for a tax credit that a third party retained by the authority performs, if the authority deems such retention to be necessary.

d. If at any time during the eligibility period the authority determines that the developer made a material misrepresentation on the developer's application, the developer shall forfeit the incentive grant.

e. If circumstances require a developer to amend its application to the authority, then the developer, or an authorized agent of the developer, shall certify to the authority that the information provided in its amended application is true under the penalty of perjury

6. (New section) a. The authority shall award incentive grants through a competitive application process consisting of up to two biannual grant rounds. The authority shall provide notice to the public of the opening and closing dates for submission of grant applications on its Internet website.

b. (1) The authority shall review applications for incentive grants submitted to the authority following the deadline dates of the grant rounds and shall evaluate each application as if submitted on the deadline date. To determine priority for an award of an incentive grant, all applications for redevelopment projects that satisfy the criteria set forth in section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) in a given round shall be

ranked on the basis of a scoring system developed by the authority through regulations adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Prior to the commencement of a grant round, the authority shall determine the minimum score for the grant round that a developer must attain to be eligible for an incentive grant.

(2) The authority may establish different rounds, criteria, and scoring for commercial projects and residential projects. If a developer intends to apply to both the authority and the agency for subsidies, the developer shall notify the agency simultaneously with any application made to the authority. The authority shall transmit its grant determination for such residential projects to the agency along with any ranking or scoring information developed by the authority and confirmation of the authority's intent to provide an incentive grant or award to the project. Approval of an application by the agency shall be the final determination required for an incentive grant for a residential project under this section.

c. For projects that are not applying to both the authority and the agency, the scoring system developed by the authority pursuant to subsection b. of this section shall assess applications for incentive grants based on the following competitive criteria, which may include, but shall not be limited to:

(1) the amount of funding requested by the developer compared to the overall cost of the redevelopment project;

(2) the benefit of the redevelopment project to the community in which the redevelopment project will be located;

(3) apprenticeships or workforce programs to be offered because of the redevelopment project;

(4) the ability of the redevelopment project to absorb and adapt to changing environments and deliver its objectives;

(5) how the project will advance State, regional, and local development and planning strategies;

(6) the relationship of the redevelopment project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(7) the degree to which the project enhances and promotes job creation and economic development; and

(8) the extent of economic and related social distress in the municipality and the redevelopment project area.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting competitive criteria required under the program when necessary to respond to the prevailing economic conditions in the State. In the case of a residential project, the authority, in consultation with the agency, may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations setting forth competitive criteria specific to residential projects.

e. Prior to allocating an incentive grant to a redevelopment project, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department

of the Treasury shall each report to the chief executive officer of the authority whether the developer is in good standing with the respective department. The authority may also contract with an independent third party to perform a background check on the developer. Provided that the developer in good standing, the authority shall allocate incentive grants to redevelopment projects according to the redevelopment project's score and until either the available incentive grants are exhausted or all redevelopment projects obtaining the minimum score receive an incentive grant, whichever occurs first. If insufficient funding exists to fully fund all eligible projects, a project may be offered partial funding.

f. Applications that do not receive the minimum score established by the authority prior to the commencement of the grant round shall not receive further consideration for an incentive grant by the authority in that grant round; however, revised or new applications may be submitted in subsequent grant rounds.

g. If a developer declines an incentive grant offered by the authority, the authority shall offer the incentive grant to the applicant having the next highest score.

7. (New section) a. Following approval and selection of an application pursuant to sections 5 and 6 of P.L. , c (C.) (pending before the Legislature as this bill), the authority shall enter into an incentive grant agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the incentive grant agreement on behalf of the State.

b. An incentive grant agreement shall specify the amount of the incentive grant the authority shall award to the developer and the duration of the eligibility period, which shall not exceed 10

years. The incentive grant agreement shall provide an estimated date of completion and include a requirement for periodic progress reports, including the submittal of executed financing commitments and documents that evidence site control. If the authority does not receive periodic progress reports, or if the progress reports demonstrate unsatisfactory progress, then the authority may rescind the incentive grant. If the authority rescinds an incentive grant in the same calendar year in which the authority approved the incentive grant, then the authority may assign the incentive grant to another applicant that attained the minimum score determined pursuant to section 6 of P.L. , c. (C.) (pending before the Legislature as this bill). The incentive grant agreement may also provide for a verification of the financing gap at the time the developer provides executed financing commitments to the authority and a verification of the developer's projected cash flow at the time of certification that the project is completed.

c. To ensure the protection of taxpayer money, if the authority determines that the project financing gap is smaller than determined at board approval, the authority shall reduce the grant on a pro rata basis. If there is no project financing gap, then the developer shall forfeit the incentive grant. In the case of a commercial project, if the developer's cash flow is greater than projected at the time of board approval, on an annual basis the authority shall require the developer to pay up to 25 percent of the amount of cash flow that exceeds the return on investment approved by the board, which shall be deposited into the General Fund of the State. In the case of a residential project, the developer's return on investment shall be subject to

the provisions of section 7 of P.L.1983, c.530 (C.55:14K-7).

d. The incentive grant agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury demonstrating that the developer is in good standing with said department and the incentive grant agreement shall include a provision that the developer shall forfeit the incentive grant in any year in which any such report is not received. The incentive grant agreement shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

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

(2) The authority may enter into an incentive grant agreement with a developer without the labor harmony agreement required under paragraph (1) of this subsection only if the authority determines that the redevelopment project would not be able to go forward if a labor harmony agreement is required. The authority shall support the determination by a

written finding, which provides the specific basis for the determination.

(3) As used in this subsection, "labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

f. In addition to the incentive grant agreement, a

developer shall enter into a community benefits agreement with the authority that shall include requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the redevelopment project is located.

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

8. (New section) a. Up to the limits established in subsection e. of this section and in accordance with an incentive grant agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive grant agreement, a developer shall be allowed a base tax credit equal to 12 percent of the total project cost of the redevelopment project; provided, however, a developer of a residential project consisting of newly-constructed residential units shall be allowed a base tax credit equal to 25 percent of the total project cost.

b. Subject to the limits established in subsection e. of this section, a developer may be allowed a tax credit in excess of the base amount; provided, however, the total tax credit allowed shall not exceed 24 percent of the total project cost of the redevelopment project. The authority shall increase a tax credit allowed for a redevelopment project pursuant to this section as provided for in subsections c. and d. of this section. The authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), criteria in addition to, or in place of, the criteria set forth in subsections c. and d. of this section in response to the prevailing economic conditions in the State.

c. Subject to the limits established in subsections b. and e. of this section, the authority shall increase the incentive grant with the following community engagement bonuses available to a developer of a redevelopment project that:

(1) is a commercial project located in a qualified incentive tract by an additional eight percent of the total project cost;

(2) is in a food desert community and the redevelopment project includes a food delivery source by an additional 1.5 percent of the total project cost;

(3) includes a health care or health services center with a minimum of 10,000 square feet of space devoted to health care or health services and is located in a municipality with a Municipal Revitalization Index score of 50 or lower lacking adequate access, as determined by the Commissioner of Health, to health care or health services by an additional 1.5 percent of the total project cost;

(4) is located in a Planning Area 1 (Metropolitan) and within a one-half mile radius, with bicycle and pedestrian connectivity, to the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations, or a high frequency bus stop as certified by the New Jersey Transit Corporation by an additional four percent of the total project cost; or

(5) is subject to a project labor agreement entered by the developer that governs work performed on the redevelopment project, by an additional eight percent of the total project cost, which bonus shall not be included in any limitation imposed in subsection b. of this section.

d. Subject to the limits established in subsection b. and e. of this section, the authority shall increase the incentive grant available to a developer of a redevelopment project that:

(1) qualifies as a tourism destination project by an additional four percent of the total project cost;

(2) includes an electric vehicle charging station installation in at least 25 percent of the parking spaces located at the redevelopment project by an additional 1.5 percent of the total project cost;

(3) includes smart growth parking, or less space per parking unit, and the developer demonstrates to the authority that the parking area at the redevelopment project is capable of conversion to commercial space if there is a decrease in demand for parking by an additional four percent of the total project cost; or

(4) includes an incubator facility or collaborative workspaces by an additional

four percent of the total project cost.

e. The value of all tax credits approved by the authority for a redevelopment project shall not exceed \$20,000,000 per redevelopment project if located in a qualified incentive tract or municipality with a Municipal Revitalization Index score of 50 or lower or \$16,000,000 for any other redevelopment project.

9. (New section) a. A developer which is awarded an incentive grant under sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill) shall submit annually, commencing in the year in which the incentive grant is issued and for the remainder of the eligibility period, a report indicating whether the developer is aware of any condition, event, or act that would cause the developer not to be in compliance with the incentive grant agreement or the provisions of sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill) and any additional reporting requirements contained in the incentive grant agreement or tax credit certificate. The developer, or an authorized agent of the developer, shall certify that the information provided pursuant to this subsection is true under the penalty of perjury.

b. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the developer and the director a certificate of compliance indicating the amount of tax credits that the developer may apply against its tax liability.

(2) Upon receipt by the director of the certificate of compliance, the director shall allow the developer a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer shall apply the credit awarded against the

developer's liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during which the director allows the developer a tax credit pursuant to this subsection. A developer shall not carry forward an unused credit. Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the director accompanied by any additional information as the director may prescribe.

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

10. (New section) a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, in the privilege period during

which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim the amount of the credit that the developer has elected to sell or assign against the developer's tax liability.

b. The developer shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units may assign a tax credit transfer certificate for consideration of less than 85 percent subject to the submission of a plan to the authority and the agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other terms and conditions that the director may prescribe.

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

tax credit transfer certificate.

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

(1) the name of the transferrer;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate; and

(4) the consideration received by the transferrer.

11. (New section) a. A developer who has entered into an incentive grant agreement pursuant to section 7 of P.L. , c. (C.) (pending before the Legislature as this bill) may, upon notice to and written consent of the authority and State Treasurer, pledge, assign, transfer, or sell any or all of its right, title, and interest in and to the incentive grant agreement and in the incentive grants payable under the incentive grant agreement, and the right to receive the incentive grants, along with the rights and remedies provided to the developer under the incentive grant agreement. Any assignment shall be an absolute assignment for all purposes, including the federal bankruptcy code.

b. Any pledge of an incentive grant made by the developer shall be valid and binding from the time the pledge is made and filed in the records of the authority. The incentive grant pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise

against the developer irrespective of whether the parties have notice thereof. In the case of a commercial project, neither the incentive grant agreement nor any other instrument by which a pledge under this section is created need be filed or recorded except with the authority. In the case of a residential project, the assignee, pledgee or subsequent holder of the incentive grant shall immediately file notice of the same with the clerk of the county in which the residential project is located.

12. (New section) a. As used in this section, "transformative project" means a redevelopment project with a project financing gap that includes one or more of the following:

(1) 1,000,000 or more square feet of new or substantially renovated commercial office space;

(2) 1,000 or more new residential units, 20 percent of which shall be constructed for occupancy by low- and moderate-income households with affordability controls as required under the rules of the Council on Affordable Housing;

(3) a project cost exceeding \$500,000,000, provided the redevelopment project qualifies as a tourism destination, mixed-use project, or both; or

(4) infrastructure improvements subject to the terms of a public-private partnership agreement, entered pursuant to the provisions of P.L.2018, c.90 (C.40A:11-52 et al.), with at least \$250,000,000 of the financing derived from a non-public source.

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

b. The authority may award an incentive grant to no more than five transformative projects in accordance with the provisions of sections 1 through 18 of P.L. , c. (C.); provided, however, a transformative project shall not be subject to the competitive application procedure set forth in section 6 of P.L. , c. (C.) (pending before the Legislature as this bill). A transformative project receiving an incentive grant pursuant to this section shall be located in a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1 and 26 U.S.C. s.1400Z-2 and situated in a distressed municipality. No more than two transformative project receiving an incentive grant pursuant to this section shall be located in a municipality.

c. Notwithstanding the limitation on incentive grants set forth in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) and the provisions of subsections a. through e. of section 8 of that act to the contrary, the authority may allow a developer of a transformative project a tax credit equal to 25 percent of the total project costs or \$100,000,000, whichever is less.

13. (New section) a. As used in this section, "qualified wind project" means a redevelopment project that includes a supporting port facility or warehousing space that supports a power generation facility designed, constructed, or installed to convert wind into electrical energy.

b. Prior to July 1, 2024, the authority may award tax credits under the program to no more than three qualified wind projects in accordance with the provisions of sections 1 through 18 of P.L. , c. (C.); provided, however, a qualified wind project shall not be subject to the competitive

application procedure set forth in section 6 of P.L. , c. (C.) (pending before the Legislature as this bill). The authority shall conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the qualified wind project will result in net benefits to the State.

c. Notwithstanding the limitation on incentive grants set forth in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) and the provisions of subsections a. through e. of section 8 of that act to the contrary, the authority may allow a developer of a qualified wind project a tax credit equal to 100 percent of the total project costs or \$250,000,000, whichever is less.

14. (New section) a. As used in this section, "qualified higher education project" means a redevelopment project focused on research and development which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university, but is not operated by a research institution, teaching hospital, college, or university. A qualified higher education project shall not mean a project to provide housing to students of a research institution, teaching hospital, college, or university.

b. Prior to July 1, 2024, the authority may award one grant of an incentive to a qualified higher education project in accordance with the provisions of sections 1 through 18 of P.L. , c. (C.); provided, however, a qualified higher education project shall not be subject to the competitive application procedure set forth in section 6 of P.L. , c. (C.) (pending before the Legislature as this bill). The authority shall conduct a State fiscal impact analysis

to ensure that the overall public assistance provided to the qualified higher education project will result in net benefits to the State.

c. Notwithstanding the limitation on incentive grants set forth in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) and the provisions of subsections a. through e. of section 8 of that act to the contrary, the authority may allow a developer of a qualified higher education project a tax credit equal to 100 percent of the total project costs or \$150,000,000, whichever is less.

15. (New section) a. As used in this section, "qualified food delivery project" means a redevelopment project with a financing gap that provides a food delivery source in a food desert designated pursuant to subsection b. of section 17 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. Prior to July 1, 2024, the authority may award tax credits under the program to qualified food delivery projects through which a developer establishes, and opens for business to the public, a food delivery source in a food desert designated pursuant to subsection b. of section 17 of P.L. , c. (C.) (pending before the Legislature as this bill) in accordance with the provisions of sections 1 through 18 of P.L. , c. (C.); provided, however, a qualified food delivery project shall not be subject to the net benefit analysis set forth in section 5 of that act or the competitive application procedure set forth in section 6 of that act.

c. Notwithstanding the limitation on incentive grants set forth in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) and the provisions of subsections a. through e. of section 8 of that act to the

contrary, the authority may allow a developer a tax credit up to 60 percent of the total project cost. The combined value of all tax credits approved by the authority pursuant to this subsection shall not exceed \$250,000,000.

d. The authority may retain the services of a third party professional organization to analyze the project financing gap of a developer seeking an award of tax credits under this subsection.

16. (New section) Beginning the year next following the year in which P.L. , c. (pending before the Legislature as this bill) takes effect and every two years thereafter, a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant to an agreement executed between the State college or university and the authority, prepare a report on the implementation of the program, and submit the report to the authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial report required under this section shall include a description of each redevelopment project receiving a tax credit under the program, a detailed analysis of the consideration given in each project to the factors set forth in sections 5 and 6 of P.L. , c. (C.) (pending before the Legislature as this bill), in the case of a commercial project, the return on investment for incentive grants awarded and the commercial project's impact on the State's economy, and any other metrics the State college or university determines are relevant based upon national best practices. The authority shall prepare a written response to the report, which the authority shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

17. (New section) a. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer deems necessary to implement the provisions of sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

b. The authority, in consultation with the Department of Agriculture and the Department of Community Affairs, shall designate separate geographic areas that are most in need of a supermarket or grocery store as food desert communities in this State for the purpose of awarding the bonus credit allowed pursuant to paragraph (2) of subsection c. of section 8 of P.L. , c. (C.) (pending before the Legislature as this bill) and the tax credits available pursuant to section 15 of that act.

18. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to read as follows:

a. The New Jersey Economic Development Authority, in consultation with the State Treasurer, shall establish an Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in qualifying economic redevelopment and growth grant incentive areas that do not qualify as such areas solely by virtue of being a transit village, through the provision

of incentive grants to reimburse developers for certain project financing gap costs.

b. (1) A developer shall submit an application for a State incentive grant prior to July 1, 2019. A developer that submits an application for a State incentive grant shall indicate on the application whether it is also applying for a local incentive grant.

(2) When an applicant indicates it is also applying for a local incentive grant, the authority shall forward a copy of the application to the municipality wherein the redevelopment project is to be located for approval by municipal ordinance.

c. An application for a State incentive grant shall be reviewed and approved by the authority. The authority shall not approve an application for a State incentive grant unless the application was submitted prior to July 1, 2019.

d. (1) If an application and supporting documentation for approval of an incentive grant under P.L.2009, c.90 (C.52:27D-489a et al.) has been received by the authority prior to July 1, 2019, then, to the extent that there remains sufficient financial authorization for the incentive grants, the authority is authorized to consider the application and to award an incentive grant to a developer, provided that the authority shall take final action on all applications for an incentive grant no later than October 31, 2019. No applications may be submitted after July 1, 2019.

(2) If a business has submitted an application under P.L.2009, c.90 (C.52:27D-489a et al.) and that application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted by a developer for the provision of incentive

grants offered pursuant to sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill).

(3) A business may terminate an existing incentive agreement in order to participate in an incentive grant agreement authorized pursuant to sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill).

(cf: P.L.2013, c.161, s.16)

19. Sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "New Jersey Forward Program Act."

20. (New section) As used in sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations, as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or the entity is an organization in a group of organizations under common control, as defined pursuant to subsection (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by sections 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C. ss.1563 and 414).

"Authority" means the New Jersey Economic Development Authority established by

section 4 of P.L.1974, c.80 (C.34:1B-4).

"Board" means the Board of the New Jersey Economic Development Authority appointed pursuant to subsection b. of section 4 of P.L.1974, c.80 (C.34:1B-4).

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

"Business" means an applicant proposing to own or lease premises in a qualified business facility that is: a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, or is a partnership, S corporation, limited liability company, or non-profit corporation. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

"Capital investment" means expenses that a business or an affiliate of the business incurs following its submission of an application to the authority pursuant to section 23 of P.L. , c. (C.) (pending before the Legislature as this bill), but prior to the

project completion date, as shall be defined in the project agreement, for: a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; and b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. ss.168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property.

"College or university" means a county college, an independent institution of higher education, a public research university, or a State college.

"Commitment period" means a period that is twice the eligibility period specified in the project agreement entered into pursuant to section 24 of P.L. , c. (C.) (pending before the Legislature as this bill).

"County college" means an educational institution established by one or more counties, pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

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

"Doctoral university" means a university located within New Jersey that is classified as a doctoral university under the Carnegie Classification of Institutions of Higher Education's Basic Classification methodology on the effective date of P.L.2017, c.221.

"Eligible business" means any business that satisfies the criteria set forth in section

22 of P.L. , c. (C.) (pending before the Legislature as this bill) at the time of application for tax credits under the program.

"Eligible position" or "full-time job" means a full-time position in a business in this State which the business has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Eligibility period" means the period in which an eligible business may claim a tax credit under the program, beginning with the tax period in which the authority accepts certification of the eligible business that it has met the capital investment and employment requirements of the program and extending thereafter for a term of not more than five years, with the term to be determined at the discretion of the authority. The authority may extend the eligibility period one additional tax period to accommodate a prorated payment pursuant to subsection a. of section 28 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Full-time employee" means a person:

a. who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

b. who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, pursuant to P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and

whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or

c. who is a resident of another State but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

A "full time employee" further means a person who, except for purposes of the Statewide workforce, is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law and who is paid no less than \$15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business or any person who, at the time of project application, works in New Jersey for consideration for at least 35 hours per week for the business, or who renders any other standard of service generally accepted by custom or practice as full-time employment, but who, prior to project application, was not provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law. Full-time employee "shall not include a contract worker whose income is subject to withholding as provided in the "New Jersey

Gross Income Tax Act,"
N.J.S.54A:1-1 et seq.

"Incentive area" means an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a Designated Center, or a Highland Designated Center, provided an area designated as Planning Area 2 (Suburban), a Designated Center or a Highland Designated Center shall be located within a one-half mile radius of the midpoint, with bicycle and pedestrian connectivity, of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations, or a high frequency bus stop as certified by the New Jersey Transit Corporation.

"Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law, character, or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education that is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis, or other professional persons in the field of religion.

"Infrastructure Fund" means the Forward Infrastructure Fund established pursuant to section 30 of P.L. ,

c. (C.) (pending before the Legislature as this bill) to fund local infrastructure improvements.

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

"New full-time job" means an eligible position created by a business at a qualified business facility that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

"Program" means the New Jersey Forward Program established by section 21 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Project" means the capital investment and the employment commitment at a qualified business facility pursuant to the project agreement.

"Project agreement" means the contract executed between an eligible business and the authority pursuant to section 24 of P.L. , c. (C.) (pending before the Legislature as this bill), which sets forth the terms and

conditions under which the eligible business may receive the incentives authorized pursuant to the program.

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

"Qualified business facility" means any building, complex of buildings, or structural components of buildings, and all machinery and equipment located therein, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location.

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

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country or eliminated. For the purposes of determining the number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"State college" means a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

"Targeted industry" means any industry identified from time to time by the board, including initially, advanced transportation and logistics,

advanced manufacturing, aviation, clean energy, life sciences, information and high technology, finance and insurance, and non-retail food and beverage businesses.

21. (New section) The New Jersey Forward Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program to encourage economic development and job creation and to preserve jobs that currently exist in the State, but which are in danger of being relocated outside of the State. The board may approve the award of tax credits to an eligible business upon application of the chief executive officer of the eligible business and following the execution of a letter of intent and the payment of fees. The combined value of all tax credits approved annually by the authority pursuant to the "New Jersey Forward Program Act," sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill), shall not exceed \$200,000,000 in a calendar year, except that the annual value of all tax credits approved by the authority pursuant to that act may exceed \$200,000,000 in a calendar year if the board, subject to the approval of the State Treasurer, determines the tax credits to be reasonable, justifiable, and appropriate; provided, however, the combined value of all tax credits approved by the authority under the "New Jersey Forward Program Act," sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill), and the "New Jersey Aspire Act," sections 1 through 18 of P.L. , c. (C.) (pending before the Legislature as this bill), shall not exceed \$300,000,000 in a calendar year.

22. (New section) a. To be eligible for tax credits under the program, a business's

chief executive officer, or equivalent officer, shall demonstrate to the authority at the time of application that:

(1) the business will make, acquire, or lease a capital investment at the qualified business facility equal to or greater than the applicable amount set forth in subsection b. of this section;

(2) the business will create or retain new and retained full-time jobs at the qualified business facility in an amount equal to or greater than the applicable number set forth in subsection c. of this section;

(3) the qualified business facility is located in a qualified incentive tract or incentive area and is:

(a) occupied by a business engaged primarily in a targeted industry;

(b) occupied by a business with a unit that will be located at the qualified business facility at which more than half of the new full-time jobs have the NAICS code of a targeted industry;

(c) occupied by a United States business relocating its headquarters to New Jersey or creating a Northeast headquarters;

(d) occupied by a foreign business creating a United States headquarters in New Jersey; or

(e) occupied by a business with 1,000 or more retained full-time jobs;

(4) the award of tax credits will be a material factor in the business's decision to create or retain the number of new and retained full-time jobs set forth in its application;

(5) the capital investment resultant from the award of tax credits and the resultant creation and retention of new and retained full-time jobs

will yield a net positive benefit to the State, which determination shall be calculated prior to considering the value of the requested tax credit;

(6) the qualified business facility shall be in compliance with the minimum environmental and sustainability standards;

(7) the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.203 (C.34:1B-5.4); and

(8) during the eligibility period, each worker employed to perform construction work or building services work at the qualified business facility shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.) In the event the qualified business facility, or the aggregate of all qualified business facilities approved for an award under the program, constitute a lease of more than 55 percent of a building owned or controlled by the eligible business, these requirements shall apply to the entire building.

b. (1) The minimum capital investment required to be eligible under the program shall be as follows:

(a) for the rehabilitation, improvement, fit-out, or retrofit of an existing industrial, warehousing, logistics, or research and development premises for continued similar use by the business, a minimum investment of \$20 per square foot of gross leasable area;

(b) for the new construction of an industrial, warehousing, logistics, or research and development premises for use

by the business, a minimum investment of \$60 per square foot of gross leasable area;

(c) for the rehabilitation, improvement, fit-out, or retrofit of existing premises that does not qualify pursuant to subparagraph (a) or (b) of this paragraph, a minimum investment of \$40 per square foot of gross leasable area;

(d) for the new construction of a premises that does not qualify pursuant to subparagraph (a) or (b) of this paragraph, a minimum investment of \$120 per square foot of gross leasable area; and

(e) for a business engaged primarily in a targeted industry with less than 50 employees at the time of application, no new minimum capital investment shall be required, provided the applicant has demonstrated evidence satisfactory to the authority of its intent to remain in the State for the commitment period.

(2) Except for a business referenced in subparagraph (e) of paragraph (1) of this subsection, the authority shall determine, using industry standards, the minimum square footage required to accommodate the number of full-time employees to be located at the qualified business facility. The capital investment of the applicant shall not be less than the square footage multiplied by the type of premises set forth in paragraph (1) of this subsection. In the event the business invests less than that amount set forth in paragraph (1) of this subsection in the qualified business facility, the business shall donate the uninvested balance to the infrastructure fund established pursuant to section 30 of P.L. , c. (C.) (pending before the Legislature as this bill).

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection,

the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting the minimum capital investment amounts required under the program when necessary to respond to the prevailing economic conditions in the State.

c. (1) The minimum number of new or retained full-time jobs required to be eligible under the program shall be as follows:

(a) for a business engaged primarily in a targeted industry with a workforce of less than 100 employees at application, 50 percent growth of its workforce with new full-time jobs within the eligibility period in accordance with subsection e. of section 27 of P.L. , c. (C.) (pending before the Legislature as this bill);

(b) for a business engaged primarily in a targeted industry with a workforce of 100 or more employees at application, 50 new full-time jobs;

(c) for a business with a workforce of 100 or more employees with a unit that will be located at the qualified business facility at which more than half of the new full-time jobs have the NAICS code of a targeted industry, 50 new full-time jobs;

(d) for a United States business relocating its headquarters to New Jersey or a United States business creating a Northeast headquarters, 200 new full-time jobs;

(e) for a foreign business creating a United States headquarters in New Jersey, 25 new full-time jobs;

(f) for a business located in a qualified incentive tract, 100 new or retained full-time jobs; provided more than half of the eligible positions

created or retained by the business are new full-time jobs;

(g) for a business located in qualified incentive tract that will retain 500 or more retained full-time jobs, a minimum of the business's retained full-time jobs at the time of application; and

(h) for a business located in the State that will retain 1,000 or more retained full-time jobs, a minimum of the business's retained full-time jobs at the time of application.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting the minimum number of new or retained full-time jobs required under the program when necessary to respond to the prevailing economic conditions in the State.

d. A business shall provide and adhere to a plan that demonstrates that the qualified business facility is capable of accommodating more than half of the business's new full-time employees and that 80 percent or more of the working time of each new or retained full-time employee shall be spent in New Jersey.

e. The owner of the business, or an authorized agent of the owner, shall certify that all factual representations made by the business to the authority pursuant to subsection a. of this section are true under the penalty of perjury.

23. (New section) a. Prior to July 1, 2024, an eligible business seeking a grant of tax credits for a project under the program shall submit an application for approval of the project to the authority in a form and manner prescribed in regulations adopted by the authority

pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. (1) Before the board may consider an eligible business's application for tax credits, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the eligible business is in good standing with the department. The authority may also contract with an independent third party to perform a background check on the eligible business. Provided that the eligible business is in good standing, before the board may consider an eligible business's application for tax credits, the eligible business shall execute a non-binding letter of intent with the chief executive officer of the authority, which shall authorize the chief executive officer, at his discretion, to announce publicly the eligible business's intention to locate a qualified business facility in New Jersey upon the board's approval of the application for tax credits. The letter of intent shall include the amount of tax credits available to the eligible business under the program.

(2) The letter of intent shall certify that the award of tax credits under the program is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program. To assist the authority in determining whether the award of tax credits is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program, the chief executive officer of the authority may consider the costs associated with opening and maintaining a business in New Jersey, competitive proposals that the

eligible business has received from other states, the prevailing economic conditions, and any other factors that the chief executive officer of the authority deems relevant. Based on this information, the authority shall independently verify and confirm the eligible business's assertion that the award of tax credits under the program is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program and, in the case of retained full-time jobs, the jobs are actually at risk of leaving the State, before the authority may award the eligible business any tax credits under the "New Jersey Forward Program Act," sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill). The owner of the eligible business, or an authorized agent of the owner, shall certify that all factual representations made by the business to the authority pursuant to this paragraph are true under the penalty of perjury.

c. An eligible business shall pay to the authority the full amount of the direct costs of an analysis concerning the eligible business's application for a tax credit, which a third party retained by the authority performs, if the authority deems such retention to be necessary.

d. If at any time during the eligibility period the authority determines that the eligible business made a material misrepresentation on the eligible business's application, the eligible business shall forfeit all tax credits awarded under the program.

e. If circumstances require an eligible business to amend its application to the authority, then the owner of the eligible business, or an authorized agent of the owner, shall

certify to the authority that the information provided in its amended application is true under the penalty of perjury

24. (New section) a. Following approval by the board, but before the issuance of tax credits, the authority shall require an eligible business to enter into a project agreement. The terms of the project agreement shall be consistent with the eligibility requirements of section 22 of P.L. , c. (C.) (pending before the Legislature as this bill) and shall include, but shall not be limited to, the following:

(1) a detailed description of the proposed project which will result in job creation or retention, and the number of new and retained full-time jobs that are approved for tax credits;

(2) the eligibility period of the tax credits;

(3) personnel information that will enable the authority to administer the program;

(4) a requirement that the eligible business maintain the project at a location in New Jersey for the commitment period, with at least the minimum number of full-time jobs as required by this program, and a provision to permit the authority to recapture all or part of any tax credits awarded, at its discretion, if the eligible business does not remain in compliance with this provision for the required term or significantly reduces the number of full-time employees, or the salaries thereof, to which the eligible business certified at the commencement of the eligibility period;

(5) a method for the eligible business to certify that it has met the capital investment and employment requirements of the program pursuant to paragraphs (1) and (2) of subsection a. of section 22 of P.L. , c. (C.) (pending

before the Legislature as this bill) and to report annually to the authority the number of new and retained full-time employees, and the salaries thereof, for which the tax credits are to be allowed;

(6) representations that the eligible business is in good standing, the project complies with all applicable law, and specifically, that the project does not violate any environmental law;

(7) a provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary;

(8) a requirement that the chief executive officer of the authority receives annual reports from the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury demonstrating that the eligible business is in good standing with such department and a provision providing that the eligible business shall forfeit all tax credits awarded in any year in which any such report is not received;

(9) a requirement for the eligible business to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health

(10) a provision permitting the authority to amend the agreement; and

(11) a provision establishing the conditions under which the authority, the eligible business, or both, may terminate the agreement.

b. In addition to the project agreement, an eligible business shall enter into a community benefits agreement with the authority that shall include requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the

qualified business facility is located.

c. (1) Except as provided in paragraph (2) of this subsection, the authority shall not enter into a project agreement with an eligible business that owns or operates a retail establishment, which will have more than 10 employees, or a distribution center, which will have more than 20 employees, unless the project agreement includes a precondition that the eligible business enters into a labor harmony agreement with a labor organization or cooperating labor organizations which represent retail or distribution center employees in the State.

(2) The authority may enter into a project agreement with an eligible business without the labor harmony agreement required under paragraph (1) of this subsection only if the authority determines that the project would not be able to go forward if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) As used in this subsection, "labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and

agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

25. (New section) a. Commencing with the date six months following the date the authority and an eligible business executes a project agreement, the eligible business shall demonstrate that it has obtained site plan approval and has committed financing for, and site control of, the qualified business facility. If the eligible business obtained site control of the qualified business facility prior to the execution of the letter of intent pursuant to section 23 of P.L. c. (C.) (pending before the Legislature as this bill), then the authority may rescind approval of the award of tax credits, unless the eligible business disclosed the fact that the eligible business had obtained the site prior to executing the letter of intent and the authority determines that the award of tax credits was still a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for

eligibility under the program. The eligible business shall provide an estimated date of completion and shall submit periodic progress reports. The authority may rescind an award of tax credits if an eligible business fails to provide the information required under this section within the period indicated in the approval of the tax credits by the board. The authority may rescind an award of tax credits under the program if a project fails to advance in accordance with the project agreement.

b. Upon completion of the capital investment and employment requirements of the program, an eligible business shall submit to the authority certifications evidencing that the eligible business has satisfied the conditions relating to the capital investment and employment requirements of the project agreement with supporting evidence satisfactory to the authority. Absent extenuating circumstances and the written approval of the authority, the eligible business shall submit the certification within three years following the date of approval of the application. The authority may grant two six-month extensions of the deadline; provided that the date of completion shall not occur later than four years following the date of approval of the application by the authority; provided further that the authority may grant one additional extension not to exceed one year upon a finding by the authority that: (1) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (2) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (3) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay. To be qualify for

the one-year extension, the eligible business shall provide timely notice to the authority of the delay within 30 days after the eligible business has actual or constructive knowledge of the delay, and shall provide periodic reports, not less than every 30 days, of the status of the delay and the steps the eligible business is taking to mitigate or overcome the delay.

c. The owner of the eligible business, or an authorized agent of the owner, shall certify that the information provided pursuant to this section is true under the penalty of perjury.

26. (New section) a. The base amount of the tax credit for an eligible business shall be equal to \$2,400 per year for a period of five years for each new or retained full-time job certified pursuant to paragraph (5) of subsection a. of section 24 of P.L. , c. (C.) (pending before the Legislature as this bill) to be located at the qualified business facility, subject to the provisions of this section.

b. (1) In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased with the following community engagement bonuses:

(a) for an eligible business with 25 percent or more of its workforce at the qualified business facility comprised of permanent full-time employees whose residences are in a qualified incentive tract within 10 miles of the qualified business facility, an increase of \$800 per year;

(b) for an eligible business with 25 percent or more of its workforce at the qualified business facility comprised of permanent full-time employees whose residences are within the State and within one-half mile of the qualified business

facility, an increase of \$800 per year.

(c) for an eligible business that expends 25 percent or more of its budget for the qualified business facility to hire in-State vendors within 10 miles of the qualified business facility for non-construction activity, an increase of \$800 per year;

(d) for an eligible business that annually funds an industry-specific training program, which has the capacity to enroll 10 percent or more of the eligible business's full-time workforce, or pays a State educational institution to provide to the public an industry-specific training program, an increase of \$400 per year; provided, however, that if the State educational institution is within 10 miles of the qualified business facility, \$800 per year;

(e) for an eligible business with a qualified business facility located in a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1 and 26 U.S.C. s.1400Z-2, an increase of \$1,200 per year;

(f) (i) for an eligible business with new full-time jobs and retained full-time jobs at the qualified business facility with a median salary not less than 20 percent, but not more than 40 percent, of the existing median salary for the county in which the qualified business facility is located, an increase of \$400 per year; or

(ii) for an eligible business with new full-time jobs and retained full-time jobs at the qualified business facility with a median salary not less than 40 percent, but not more than 60 percent of the existing median salary for the county in which the qualified business facility is located, an increase of \$800 per year; or

(iii) for an eligible business with new full-time jobs and retained full-time jobs at the

qualified business facility with a median salary in excess of 60 percent of the existing median salary for the county in which the qualified business facility is located, an increase of \$1,200 per year;

(g) for an eligible business that is not eligible for tax credits under the program solely on the basis of subparagraph (f) or (g) of paragraph (1) of subsection c. of section 21 of P.L. , c. (C.) (pending before the Legislature as this bill), is not eligible for a bonus pursuant to subparagraph (e) of this paragraph, and is located in a qualified incentive tract, an increase of \$400 per year;

(h) for an eligible business engaged primarily in a targeted industry with a qualified business facility that is used by the eligible business to conduct a full-time collaborative relationship with a college or university, including doctoral university, an increase of \$400 per year; provided, however, that if the college or university, including a doctoral university, is within 10 miles of the qualified business facility, an increase of \$800 per year;

(i) for an eligible business with a qualified business facility that is not located in a qualified incentive tract but is within one-half mile, with bicycle and pedestrian connectivity, to the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations, or a high-frequency bus stop as certified by New Jersey Transit, an increase of \$800 per year, and

(j) for an eligible business that enters into a project labor agreement, an increase of \$800 per year, which bonus shall not be included in any

limitation imposed in subsection e. of this section.

(2) The authority shall not award a bonus to an eligible business with full-time jobs at the qualified business facility that pay less than \$15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

(3) In order to receive the bonuses provided under subparagraphs (a) through (d) of paragraph (1) of this subsection, an eligible business shall present to the authority a plan to meet the criteria set forth in those subparagraphs at the time the eligible business submits its application.

(4) The authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), criteria in addition to, or in place of, the criteria set forth in paragraph (1) of this subsection in response to the prevailing economic conditions in the State.

c. The gross amount of the tax credit available to an eligible business for each new or retained full-time job shall be the sum of the base amount set forth in subsection a. of this section and the various additional bonus amounts for which the business is eligible pursuant to subsection b. of this section.

d. The authority shall reduce the gross amount of tax credits per full-time job if the median salary of new full-time jobs and retained full-time jobs at the qualified business facility is less than the existing median salary for the county in which the qualified business facility is located. The authority shall reduce the gross amount of tax credits per full-time job by an amount, in percentage points, equal to the percentage the median salary of new full-time jobs and retained full-time jobs at the

qualified business facility is below the existing median salary for the county in which the qualified business facility is located. The authority shall not award a tax credit to an eligible business if the median salary of new full-time jobs and retained full-time jobs at the qualified business facility is 30 percent or more below the existing median salary for the county in which the qualified business facility is located.

e. After the determination by the authority of the gross amount of tax credits for which an eligible business is eligible pursuant to subsection c. of this section, the final total tax credit amount shall be calculated as follows: (1) for each new full-time job, the eligible business shall be allowed tax credits equaling the lesser of 100 percent of the gross amount of tax credits for each new full-time job, or \$6,400 for each new full-time job; and (2) for each retained full-time job, the eligible business shall be allowed tax credits equaling the lesser of 50 percent of the gross amount of tax credits for each retained full-time job, or one-tenth of the capital investment divided by the number of new and retained full-time jobs per year over the grant term of five years.

f. Notwithstanding the provisions of subsections a. through e. of this section to the contrary, for each application approved by the board, the amount of tax credits available to be applied by the business annually shall not exceed an amount determined by the authority to be necessary to induce the project to be sited in New Jersey as determined by the board. The authority shall determine the amount necessary to complete the project through staff analysis of all locations under consideration by the eligible business and all lease agreements, ownership documents, or substantially similar documentation for the

eligible business's current in-State locations and potential out-of-State location alternatives, competitive proposals from other states, the prevailing economic conditions, and any other information that the authority deems relevant.

27. (New section) a. (1) If, in any tax period, an eligible business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill), then the eligible business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the eligible business's Statewide workforce to the threshold levels required by this subsection has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If the annual report filed by an eligible business pursuant to section 28 of P.L. , c. (C.) (pending before the Legislature as this bill) provides that the number of new full-time employees employed by the eligible business at the qualified business facility, or the salaries thereof, was reduced by more than 10 percent of the number of new full-time employees, or salaries thereof, in the annual report of the prior year, or the project agreement if the annual report is the first such report filed, then the authority may reevaluate the net positive economic benefit of the project and reduce the size of the award accordingly. This reduction shall not affect any recapture under subsection f. of this section.

b. If, in any tax period, the number of full-time employees employed by the eligible business at the qualified business facility, or the salaries thereof, drops below 80 percent of the number of new and retained full-time jobs, and the salaries thereof, specified in the project agreement, then the eligible business shall forfeit its tax credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the eligible business at the qualified business facility to 80 percent of the number of jobs specified in the project agreement or the restoration of 80 percent of the salaries specified in the project agreement is reviewed and approved by the authority.

c. Except for an eligible business engaged primarily in a targeted industry with less than 50 employees at application:

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

(2) If a tenant subleases its tenancy in whole or in part during the eligibility period, the new tenant shall not acquire the tax credits of the sublessor, and the sublessor tenant shall forfeit all tax credits for the tax period of its sublease and all subsequent tax periods.

d. A business engaged primarily in a targeted industry with less than 50 employees at application may move its qualified business facility provided that the

business remains in New Jersey during the commitment period.

e. The authority may require an eligible business engaged primarily in a targeted industry with less than 100 employees at application, to submit a growth plan, which specifies the number of new full-time employees at the qualified business facility that the eligible business will hire each year of the eligibility period, provided that by the end of the eligibility period, the eligible business shall have a minimum of 50 percent growth of its workforce with new full-time jobs. If the eligible business meets the number of new full-time employees specified in the growth plan each year of the eligibility period, then the eligible business shall be entitled to an increased credit amount for that tax period, and each subsequent tax period, for each additional full-time employee added above the number of full-time employees certified, until the full-time employees number the maximum number projected for the final year of the eligibility period. Failure to meet the projections in any year shall not constitute a default but shall cause the authority to reduce the award in accordance with a schedule attached to the project agreement.

f. (1) The authority may recapture all or part of a tax credit awarded if an eligible business does not remain in compliance with the requirements of a project agreement for the duration of the commitment period. A recapture pursuant to this subsection may include interest on the recapture amount, at a rate equal to the statutory rate for corporate business or insurance premiums tax deficiencies, plus any statutory penalties, and all costs incurred by the authority and the Division of Taxation in the Department of the Treasury in connection with the pursuit of the recapture, including, but not

limited to, counsel fees, court costs, and other costs of collection. Failure of the eligible business to meet any program criteria shall constitute a default and shall result in the recapture of all or part of the tax credit awarded.

(2) If all or part of a tax credit sold or assigned pursuant to section 29 of P.L. , c. (C.) (pending before the Legislature as this bill) is subject to recapture, then the authority shall pursue recapture from the eligible business and not from the purchaser or assignee of the tax credit transfer certificate. The purchaser or assignee of a tax credit transfer certificate shall be subject to any limitations and conditions that apply to the use of the tax credits by the eligible business.

(3) Any funds recaptured pursuant to this subsection, including penalties and interest, shall be deposited into the General Fund of the State.

28. (New section) a. (1) An eligible business which is awarded tax credits under sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill) shall submit annually, no later than the date indicated in the project agreement, commencing in the year in which the grant of tax credits is issued and for the remainder of the commitment period, a report that indicates that the eligible business continues to maintain the number of new and retained full-time jobs, and the salaries thereof, specified in the project agreement. As part of the annual report required pursuant to this subsection, an eligible business shall provide to the authority a copy of its applicable New Jersey tax return showing business income and withholdings as a condition of its continuation in the program, and the quarterly wage report required under R.S.43:21-14 submitted

to the Department of Labor and Workforce Development together with an annual payroll report showing (a) the new full-time jobs which were created in accordance with the project agreement and (b) the new full-time jobs created during each subsequent year of the commitment period. The failure of an eligible business to submit to the authority a copy of its annual payroll report or submit the quarterly wage report in accordance with the provisions of this subsection during the eligibility period shall result in the forfeit of the award. An eligible business shall explain, in the reports required by this subsection, the reason for any discrepancies between the annual payroll report submitted by the eligible business and the quarterly wage report. The owner of the eligible business, or an authorized agent of the owner, shall certify that the information provided pursuant to this paragraph is true under the penalty of perjury. Claims, records, or statements submitted by an eligible business to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

(2) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the eligible business and the director a certificate of compliance indicating the amount of tax credits that the eligible business may apply against its tax liability. The authority shall pro rate the tax credit for the first and last years of the eligibility period based on the number of full months the project was certified in the year the eligible business first certifies.

b. (1) In conducting its annual review, the authority may require a business to submit any information determined by the authority to

be necessary and relevant to its review.

(2) An eligible business shall forfeit the credit amount for any tax period for which the eligible business's documentation remains uncertified as of the date for certification indicated in the project agreement, although credit amounts for the remainder of the years of the eligibility period shall remain available to the eligible business.

c. Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

d. (1) Upon receipt by the director of the certificate of compliance, the director shall allow the eligible business a tax credit. The eligible business may apply the credit allowed by the director against the eligible business's tax liability for the tax period in which the director allowed the tax credit or may carry forward the credit for use by the eligible business in any of the next seven successive tax periods, provided those periods do not extend beyond the commitment period.

(2) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the director accompanied by any additional information as the director may prescribe.

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

29. (New section) a. An eligible business may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, in the tax period during which the director allows the eligible business a tax credit, in lieu of any amount of the tax credit against the eligible business's State tax liability. The tax credit transfer certificate, upon receipt thereof by the eligible business from the director and the chief executive officer of the authority, may be sold or assigned, in the tax period during which the eligible business receives the tax credit transfer certificate from the director, to another person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall apply the transferred credit against the same tax for which the eligible business was approved a tax credit under the program. The tax credit transfer certificate provided to the eligible business shall include a statement waiving the eligible business's right to claim the credit that the

eligible business has elected to sell or assign.

b. The eligible business shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the eligible business of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to the eligible business by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other terms and conditions that the director may prescribe.

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

d. Ten percent of the consideration received by the eligible business from the sale or assignment of a tax credit transfer certificate pursuant to this section shall be remitted to the director and deposited in the General Fund of the State.

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

(1) the name of the transferrer;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferrer.

30. (New section) a. The Department of Community Affairs shall establish a dedicated fund to be known as the Forward Infrastructure Fund. Money in the fund shall be dedicated to the purpose of funding local infrastructure, which shall include:

(1) buildings and structures, such as schools, fire houses, police stations, recreation centers, public works garages, and water and sewer treatment and pumping facilities;

(2) sidewalks, streets, roads, ramps, and jug handles;

(3) open space with improvements such as athletic fields, playgrounds, and planned parks;

(4) open space without improvements;

(5) public transportation facilities such as train stations and public parking facilities; and

(6) the purchase of equipment considered vital to public safety.

b. The fund shall be credited with money remitted by eligible businesses pursuant to paragraph (2) of subsection b. of section 22 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. Money remitted to the fund by an eligible business pursuant to paragraph (2) of subsection b. of section 22 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be earmarked for use on local infrastructure projects in the municipality in which the eligible business's project is located.

d. A municipality shall apply to the Department of Community Affairs, in a form and manner prescribed by the department, for disbursements from the Forward Infrastructure Fund. The department shall review

and approve applications for disbursements of money from the fund pursuant to the provisions of this section and the rules and regulation promulgated by the department pursuant to subsection e. of this section. The department shall coordinate with other boards, commissions, institutions, departments, agencies, State officers, and employees to carry out the local infrastructure projects funded through the Forward Infrastructure Fund.

e. The department shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this section.

31. (New section) Beginning the year next following the year in which P.L. , c. (pending before the Legislature as this bill) takes effect and every two years thereafter, a State college shall, pursuant to an agreement executed between the State college or university and the authority, prepare a report on the implementation of the program, and submit the report to the authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial report required under this section shall include a description of each eligible business receiving a tax credit under the program, a detailed analysis of the consideration given to each applicant, an analysis of whether the incentives awarded influenced the eligible business's decisions to locate a qualified business facility in the State, the return on investment for incentives awarded, the eligible business's impact on the State's economy, and any other metrics the State college determines are relevant based upon national best practices. The authority shall prepare a written response to the report, which the authority shall submit to the Governor and, pursuant to section 2 of

P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

32. (New section) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer deems necessary to implement the provisions of sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.)

33. Section 3 of P.L.2011, c.149 (C.34:1B-244) is amended to read as follows:

3. a. The Grow New Jersey Assistance Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority and shall be administered by the authority. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated outside of the State. To implement this purpose, the program may provide tax credits to eligible businesses for an eligibility period not to exceed 10 years.

To be eligible for any tax credits pursuant to P.L.2011, c.149 (C.34:1B-242 et al.), a business's chief executive officer or equivalent officer shall demonstrate to the authority, at the time of application, that:

(1) the business, expressly including its landlord or seller, will make, acquire, or lease a capital investment equal to, or greater than, the applicable amount set forth in subsection b. of this section at a qualified business facility at which it will:

(a) retain full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section;

(b) create new full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section; or

(c) in combination, retain full-time jobs and create new full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section;

(2) the qualified business facility shall be constructed in accordance with the minimum environmental and sustainability standards;

(3) the capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs will yield a net positive benefit to the State equaling at least 110 percent of the requested tax credit allocation amount, which determination is calculated prior to taking into account the value of the requested tax credit and shall be based on the benefits generated during the first 20 years following the completion of the project, except that:

(a) for a mega project or a project located in a Garden State Growth Zone, the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the authority, and

(b) for a project located in a Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act,"

P.L.2002, c.43 (C.52:27BBB-1 et al.), the net positive benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, as determined by the authority, and shall equal at least 100 percent of the requested tax credit allocation amount and may utilize the value of those property taxes subject to the provisions of section 24 of P.L.2013 c.161 (C.52:27D-489s), or the value of those property taxes that would have been assessed on the new construction, improvements, or substantial rehabilitation of structures on real property if the structures were not exempt because they are on real property owned by a public entity, and incremental sales and excise taxes that are derived from activities within the area and which are rebated or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention; and

(4) except as provided in subsection f. of this section, the award of tax credits will be a material factor in the business's decision to create or retain the minimum number of new or retained full-time jobs for eligibility under the program.

With respect to the provisions of paragraph (3) of this subsection, in the case of a project located in a Garden State Growth Zone, the authority, in its discretion, may award bonuses in its net positive benefit calculation.

b. For all projects approved after the effective date of P.L.2013, c.161, the minimum capital investment required to be eligible under this program shall be as follows:

(1) for the rehabilitation, improvement, fit-out, or retrofit of an existing industrial, warehousing, logistics, or research and development premises for

continued similar use by the business in at least 51 percent of the gross leasable area of the premises, a minimum investment of \$20 per square foot of gross leasable area;

(2) for the new construction of an industrial, warehousing, logistics, or research and development premises for similar use by the business in at least 51 percent of the gross leasable area of the premises, a minimum investment of \$60 per square foot of gross leasable area;

(3) for the rehabilitation, improvement, fit-out, or retrofit of an existing premises that does not qualify pursuant to paragraph (1) or (2) of this subsection, a minimum investment of \$40 per square foot of gross leasable area; and

(4) for the new construction of a premises that does not qualify pursuant to paragraph (1) or (2) of this subsection, a minimum investment of \$120 per square foot of gross leasable area.

The minimum capital investment required by this subsection shall be reduced by one-third for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.

c. The minimum number of new or retained full-time jobs required to be eligible under this program shall be as follows:

(1) for a business that is a technology startup company or a manufacturing company, a minimum of 10 new or 25 retained full-time jobs;

(2) for a business engaged primarily in a targeted industry other than a technology startup company or a manufacturing company, a minimum of 25 new or 35 retained full-time jobs; and

(3) for any other business, a minimum of 35 new or 50 retained full-time jobs.

The minimum number of new or retained full-time jobs required by this subsection shall be reduced by one-quarter for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.

d. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating: (1) that any existing full-time jobs are at risk of leaving the State or being eliminated; (2) that any projected creation or retention, as applicable, of new full-time jobs would not occur but for the provision of tax credits under the program; and (3) that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, provided however, that in satisfaction of the provisions of paragraphs (1) and (2) of this subsection, the certification with respect to a project in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a project located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, shall indicate that the provision of tax credits under the program is a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act,"

P.L.2002, c.43 (C.52:27BBB-1 et al.), or a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, and as to the date or dates at which the authority expects that those jobs would actually leave the State, or, with respect to projects located in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or projects located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18

(C.5:12-219) and regulated by the Casino Reinvestment Development Authority, the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, before a business may be awarded any tax credits under this section.

e. A project that consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. For a qualified business facility that is a mixed-use project that includes retail facilities and that is located in a Garden State Growth Zone or the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, retail facilities in an amount up to 7.5 percent of the mixed-use project may be included in the mixed-use project application for a grant of tax credits along with the non-retail facilities, and that application may include in the aggregate the pro-rata number of full-time employees employed by any number of tenants or other occupants of the included retail facilities. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse

facility shall not be eligible for a grant of tax credits. For the purposes of this section, a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by a full-service supermarket or grocery store, located in a Garden State Growth Zone which qualified under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a tourism destination project in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), or catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

f. The authority may determine as eligible for tax credits under the program any business that is required to respond to a request for proposals and to fulfill a contract with the federal government although the business's chief executive officer or equivalent officer has not demonstrated to the authority that the award of tax credits will be a material factor in the business's decision to retain the minimum number of retained full-time jobs, as otherwise required by this section. The authority may, in its discretion, consider the economic benefit of the retained full-time jobs servicing the contract in conducting a net benefit analysis required by paragraph (4) of subsection a. of this section. For the purposes of this subsection, "retained full-time jobs" includes jobs that are at risk of being eliminated. Applications to the authority for eligibility under the program pursuant to the criteria set forth in this subsection shall be completed by December 31, 2013. Submission of a proposal to the federal government prior to authority approval shall not disqualify a business from the program.

g. Nothing shall preclude a business from applying for tax credits under the program for

more than one project pursuant to one or more applications.

h. (1) If an application and supporting documentation for approval of an incentive grant under P.L.2009, c.90 (C.52:27D-489a et al.) has been received by the authority prior to July 1, 2019, then, to the extent that there remains sufficient financial authorization for the incentive grant, the authority is authorized to consider the application and to award an incentive grant to a developer, provided that the authority shall take final action on all applications for an incentive grant no later than October 31, 2019. No applications may be submitted after July 1, 2019.

(2) If a business has submitted an application under P.L.2013, c.161 (C.52:27D-489p et al.) and that application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted by a business for the provision of incentives offered pursuant to sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill).

(3) A business may terminate an existing incentive agreement in order to participate in a project agreement authorized pursuant to sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill). The authority shall recapture all or part of any award, provided that the authority may calculate the permitted recapture to recognize the period of time that the business was in compliance prior to termination and such recapture amount may be paid after approval by the board of the business's application for a tax credit under sections 19 through 34 of P.L. , c. (C.) (pending before the Legislature as this bill), but the business shall pay the recapture amount before the

authority executes a project agreement pursuant to section 24 of P.L. , c. (C.) (pending before the Legislature as this bill), which shall be executed within 18 months following the date of approval of the business's application. The capital investment incurred and new or retained full-time jobs pledged by the business in the new project agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

(cf: P.L.2014, c.63, s.3)

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

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

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

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

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

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

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

submitted prior to July 1, 2019.

(2) (a) A business shall submit its documentation indicating that it has met the capital investment and employment requirements specified in the incentive agreement for certification of its tax credit amount within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. Except as provided in subparagraph (b) of this paragraph, [in no event shall] the incentive effective date shall not occur later than four years following the date of approval of an application by the authority, provided, however, the authority may grant an additional extension not to exceed one year upon a finding by the authority that: (1) the project is delayed due to unforeseeable acts related to the project beyond the business's control and without its fault or negligence; (2) the business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; (3) the business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay; (4) the business provided timely notice to the authority of the delay within 30 days after the business had actual or constructive knowledge of the delay; and (5) the business provided periodic reports, not less than every 30 days, concerning the status of the delay and the steps the business took to mitigate or overcome the delay.

(b) As of the effective date of P.L.2017, c.314, a business which applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149 (C.34:1B-242 et al.), shall submit its documentation to the authority no later than July 28, 2019, indicating that it has met the capital

investment and employment requirements specified in the incentive agreement for certification of its tax credit amount.

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

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

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

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

The credit amount may be taken by the tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax periods, and shall expire thereafter. The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time within three years of the date of issuance for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in

years may be taken in any tax period.

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

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

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

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then

the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 80 percent of the number of jobs specified in the incentive agreement.

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

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease the facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease the facility; (ii) the ownership or leasing of the facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease the facility. The ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. The members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business

entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

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

(b) For a project located within a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which qualifies for a tax credit pursuant to subparagraph (ii) of subparagraphs (a) through (e) of paragraph (6) of subsection

d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the total tax credit amount per full-time job by using the certified capital investment of the project allowable under the applicable subsubparagraph and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount shall be adjusted accordingly pursuant to this section.

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

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

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

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

(cf: P.L.2018, c.120, s.3)

35. (New section) Sections 35 through 49 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "New Jersey Innovation Evergreen Act."

36. (New section)As used in sections 35 through 49 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Follow-on investment" means a subsequent investment made by an investor who has a previous investment in a New Jersey high-growth business.

"Fund" means the New Jersey Innovation Evergreen Fund established by section 38 of P.L. , c. (C.)

(pending before the Legislature as this bill).

"High-growth business" means a business that is growing significantly faster than the average growth rate of the economy or is a start-up company that is investing in developing a product or new business model that will allow it to grow significantly faster than the average growth rate of the economy within the next three to five years.

"Innovation ecosystem" means funding, programs, and events that support the establishment and expansion of high-growth companies in targeted sectors. Examples of such funding, programs, and events include: mentoring programs for start-ups, meet-up or networking events, funding for locating a business in a collaborative workspace, programs that provide businesses services, and entrepreneurial education to companies.

"Principal business operations" means at least 50 percent of the business's employees, who are not primarily engaged in retail sales, reside in the State or at least 50 percent of the business's payroll for employees not primarily engaged in retail sales is paid to individuals living in this State.

"Program" means the New Jersey Innovation Evergreen Program established by section 37 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Purchaser" means an entity registered to do business in this State with the Director of the Division of Revenue in the Department of the Treasury that purchases an allocation of tax credits under the program.

"Qualified business" means a business that, at the time of the first qualified investment in the business and throughout the period of the qualified investment under the program, is registered to do business

in this State with the Director of the Division of Revenue in the Department of the Treasury; has its principal business operations located in the State and intends to maintain its principal business operations in the State after receiving a qualified investment under the program; is engaged in a targeted industry; and employs fewer than 250 persons at the time of the qualified investment.

"Qualified investment" means the direct investment of money by the fund in a qualified business for the purchase of shares of stock, with an additional investment in an option or warrant or a follow-on investment, in the discretion of the authority, all of which is matched by an investment by a qualified venture firm.

"Qualified venture firm" means a venture firm that is approved by the authority as a qualified venture firm pursuant to section 44 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Special Purpose Vehicle" means an entity controlled by or under common control with a venture firm that is formed solely for the purpose of investing in a New Jersey high-growth business alongside the venture firm.

"Targeted industry" means any industry identified from time to time by the authority including initially advanced transportation and logistics, advanced manufacturing, clean energy, life sciences, information and high technology, aviation, finance and insurance, and non-retail food and beverage businesses and other innovative industries that disrupt current technologies or business models.

"Venture firm" means a partnership, corporation, trust, or limited liability company that invests cash in a business during the early or

expansion stages of a business in exchange for an equity stake in the business in which the investment is made. Venture firm may include a venture capital fund, a family office fund, and a corporate investor fund, provided that a professional manager administers the venture firm.

37. (New section) The New Jersey Innovation Evergreen Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The purpose of the program is to invest in innovation as a catalyst for economic growth and to advance the competitiveness of the State's businesses in the global economy. Beginning on the effective date of P.L. , c. (pending before the Legislature as this bill), the authority shall auction up to \$300,000,000 in tax credits to implement this purpose; provided, however, the authority shall not auction more than \$60,000,000 in tax credits under the program in any calendar year. The authority shall not undertake an auction if, exclusive of reserves, including the reserve set aside for follow-on investments pursuant to subsection d. of section 38 of P.L. , c. (C.) (pending before the Legislature as this bill), more than \$15 million is available to allocate to qualified venture firms.

38. (New section) a. The authority shall establish and maintain a dedicated fund to be known as the New Jersey Innovation Evergreen Fund. The authority shall use the money in the fund only to carry out the purposes enumerated in subsections b. and c. of this section. The authority shall credit the fund with money paid by purchasers; distributions from payments or repayments made to the authority in accordance with subsection c. of section 46 of P.L. , c. (C.) (pending before the Legislature as this bill); earnings received, if any,

from the investment or reinvestment of money credited to the fund; and any money which, from time to time, may otherwise become available for the purposes of the fund.

b. The authority shall use the fund to allocate money to qualified venture firms to make qualified investments of capital in qualified businesses through a special purpose vehicle in accordance with section 45 of P.L. ,

c. (C.) (pending before the Legislature as this bill) and to pay the administrative, legal, and auditing expenses of the authority incurred in the administration of the program. In addition, the authority shall use 75 basis points of the total funds deposited in the fund, calculated on an annual basis, for programs administered by the authority that create an innovation ecosystem that supports and promotes high-growth businesses in the State.

c. The authority shall deposit into the fund dividends and returns on investments paid to the authority by or on behalf of a qualified business. Upon the fund holding total deposits of \$500,000,000 and thereafter upon a qualified investment in a qualified business achieving a return on investment of twice the original and follow-on investment, 50 percent of any return on investment in excess of twice the original and follow-on investment shall be paid to the General Fund of the State.

d. The authority shall account for and calculate reserves for follow-on investments, programs that support the State's innovation ecosystem, and administrative, legal, and auditing expenses. The authority shall not include these reserves when calculating the amount in the fund available for new qualified investments.

39. (New section) a. The authority shall sell the tax credits authorized under

section 37 of P.L. ,
 c. (C.) (pending before
 the Legislature as this bill)
 to purchasers through a
 competitive auction process.

b. The authority shall
 determine the form and manner
 in which potential purchasers
 may bid for tax credits
 available under the program.
 To be allowed a tax credit
 under the program, a potential
 purchaser shall:

(1) specify the requested
 amount of tax credits, which
 shall not be less than
 \$1,000,000;

(2) specify the amount the
 potential purchaser will pay
 in exchange for the requested
 amount of tax credits, which
 shall not be less than 85
 percent of the requested
 dollar amount of tax credits;

(3) commit to serve on the New
 Jersey Innovation Evergreen
 Advisory Board, established
 pursuant to section 45 of
 P.L. , c. (C.)
 (pending before the
 Legislature as this bill), and
 to otherwise provide
 mentorship and networking
 opportunities to qualified
 businesses that receive
 funding under the program; and

(4) provide any other
 information that the chief
 executive officer of the
 authority determines is
 necessary.

c. Prior to an auction, the
 authority shall establish and
 disclose to bidders the
 weighted criteria the
 authority will utilize, which
 the authority shall base on
 the price offered to purchase
 the tax credits and the
 quality of the mentorship and
 networking opportunities and
 other support of the State's
 innovation ecosystem offered
 by a purchaser in its bid. The
 authority may pro rate the
 amount of tax credits
 allocated to each purchaser.
 A potential purchaser that
 submits a bid for tax credits
 under this section shall
 receive a written notice from
 the authority indicating

whether the authority has approved it as a purchaser of tax credits and, if so, the amount of tax credits approved.

d. Except as provided in section 37 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority shall hold one competitive auction per calendar year.

e. Notwithstanding the provisions of this section to the contrary, the authority may contract with an independent third party to conduct the competitive bidding process through which State tax credits issued by the authority may be sold.

40. (New section) a. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 39 of P.L. , c. (C.) (pending before the Legislature as this bill) shall enter into a contract with the authority that includes payment information and the commitments made by the purchaser in its auction bid. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 39 of P.L. , c. (C.) (pending before the Legislature as this bill) shall pay by wire transfer the amount specified in its auction bid to the authority for deposit into the fund. Upon receipt thereof, the chief executive officer shall notify the director to issue tax credits in the amount approved. Failure by the purchaser to pay the amount agreed upon on time may disqualify the purchaser from purchasing the tax credits and the authority may reassign the right to purchase the credits to another bidder. Failure by the purchaser to adhere to the commitments made in its auction bid may disqualify the purchaser from participating in future auctions and may result in the recapture of a portion of the tax credits.

b. The authority shall credit to the fund any money paid to the authority by a purchaser for an allocation of tax credits under the program.

c. The authority shall ensure that no undue financial advantage shall inure to a purchaser that also is managing a qualified venture firm; beneficially owning, through rights, options, convertible interests, or otherwise, more than 15 percent of the voting securities or other voting ownership interests of a qualified venture firm; or controlling the direction of investments for a qualified venture firm. The chief executive officer of the authority shall certify that the authority is monitoring the activities of such purchasers and has taken appropriate steps to ensure no undue financial advantage inures to the purchasers.

41. (New section) a. A purchaser shall apply the credit allowed pursuant to sections 35 through 49 of P.L. , c. (C.) (pending before the Legislature as this bill) against the State tax liability of the purchaser for the current privilege period or reporting period as of the date of the credit's approval. A purchaser may carry forward an unused credit resulting from the limitations of subsection b. of this section, if necessary, for use in the seven privilege periods or reporting periods next following the privilege period or reporting period for which the credit is allowed.

b. The director shall prescribe the order of priority of the application of the credit allowed under sections 35 through 49 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other credits allowed by law. The amount of a credit applied under sections 35 through 49 of P.L. , c. (C.) (pending before the Legislature as this bill) against the tax imposed

pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability of the purchaser to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

42. (New section) a. A purchaser may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, in the privilege period or reporting period during which the director allows the purchaser a tax credit pursuant to sections 35 through 49 of P.L. , c. (C.) (pending before the Legislature as this bill), in lieu of the purchaser being allowed to apply any amount of the tax credit against the purchaser's State tax liability. The tax credit transfer certificate, upon receipt thereof by the purchaser from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to another person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The buyer or assignee of a tax credit transfer certificate pursuant to this section shall apply the transferred credit against the same tax for which the purchaser was approved a tax credit under the program. The tax credit transfer certificate provided to the purchaser shall include a statement waiving the purchaser's right to claim the credit that the purchaser has elected to sell or assign.

b. The purchaser shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the purchaser of less than 85 percent of the transferred credit amount before

considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a purchaser by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 41 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other terms and conditions that the director may prescribe.

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

d. Ten percent of the consideration received by a purchaser from the sale or assignment of a tax credit transfer certificate pursuant to this section shall be remitted to the director and deposited in the General Fund of the State.

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

(1) the name of the transferrer;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferrer.

43. (New section) a. The authority shall establish an application process and determine the form and manner through which a venture firm may make and file an application for certification

as a qualified venture firm. The authority may accept applications on a rolling basis or on a date set by the authority.

b. In evaluating applicants for certification as a qualified venture firm, the authority shall establish weighted criteria by which the authority will evaluate all venture firms applying in the same calendar year and shall establish a minimum acceptable score. The criteria may include, but shall not be limited to:

(1) the management structure of the applicant, including:

(a) quality of the leadership, including willingness to work with the authority to support targeted industries and the innovation ecosystem in the State, and to locate in the State;

(b) the investment experience of the principals with qualified businesses;

(c) the knowledge, experience, and capabilities of the applicant in subject areas relevant to high-growth businesses in the State;

(d) the tenure and turnover history of principals and senior investment professionals of the applicant;

(e) whether the State's investment with the applicant under this program would exceed 15 percent of the total invested in the applicant by all investors, including investments in any special purpose vehicles;

(f) the fund's stage of fundraising; and

(g) whether fees, expenses and the remuneration of the general partner or fund manager are similar to those of peer funds; and

(2) the applicant's investment strategy, including:

(a) the applicant's track record of investing in high-growth businesses;

(b) whether the investment strategy of the fund is focused on high-growth businesses, including the percentage of the fund identified for investment in New Jersey or surrounding geographic areas; and

(c) the performance history of the general partner or fund manager based on a review of investment returns on individual funds on an absolute basis and relative to peers.

44. (New section) a. The authority shall review the criteria for certification set forth in section 43 of P.L. , c. (C.) (pending before the Legislature as this bill) and shall certify or refuse to certify a venture firm as a qualified venture firm.

b. The authority shall not certify a venture firm as a qualified venture firm if the venture firm has: (1) an equity capitalization, net assets, or written commitments of less than \$10,000,000 in the form of cash or cash equivalents on the date the determination for certification is made; or (2) fewer than two principals or persons employed to direct the qualified investment of capital who have at least five years of money management experience in the venture capital or private equity sectors on the date the determination for certification is made. The authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules setting forth additional disqualifying criteria and adjusting the minimum equity capitalization, net assets, or written commitments of a qualified venture firm.

c. The authority shall provide written notification to each venture firm that is certified

as a qualified venture firm by the authority and shall provide written notification to each venture firm that the authority refuses to certify as a qualified venture firm, communicating in detail the grounds for the authority's refusal. The authority shall review each qualified venture firm annually for the disqualifying criteria set forth in subsection b. of this section. The authority may decertify a qualified venture firm at any time pursuant to the disqualifying criteria set forth in subsection b. of this section. Decertification shall not affect any previously made qualified investment or the fund's commitment to make a follow-on investment in a qualified business.

45. (New section) a. The authority is authorized to allocate money credited to the fund to one or more qualified venture firms for qualified investments at the times, in the amounts, and subject to the terms and conditions that the authority shall determine to be necessary and appropriate to effectuate the purposes of sections 35 through 49 of P.L. , c. (C.) (pending before the Legislature as this bill); provided that no more than two qualified investments shall be made with each qualified venture firm in a calendar year and each qualified investment shall not exceed \$5,000,000 in initial investment, exclusive of follow-on investments. The fund shall not invest in a qualified venture firm if the authority determines that an undue financial advantage would inure to a purchaser if the investment occurs or if the investment would be inconsistent with the investment policies and goals of the State.

b. The authority shall make and enter into an agreement with each qualified venture firm. The agreement shall include provisions that require the qualified venture firm to:

(1) make investments in qualified business that equal or exceed the amount of capital received by the qualified venture firm from the fund under the program;

(2) cause an audit of the qualified venture firm's books and accounts, which a certified public accountant, who is licensed in accordance with the "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with the laws of another state, shall conduct at least once in each year in which the qualified venture firm is in receipt of fund money or in which the qualified venture firm is responsible for the management of fund money allocated to the qualified venture firm by the authority;

(3) enter into an agreement with each qualified business that receives a qualified investment, which agreement shall, at a minimum, require the qualified business to use the qualified investment of capital to support its business operations in this State and to provide the information required under section 46 of P.L. , c. (C.) (pending before the Legislature as this bill);

(4) upon the identification of a qualified investment, create a special purpose vehicle for the qualified investment of the fund;

(5) upon the identification of a qualified investment, indicate the amount of follow-on investment the authority should reserve, and periodically provide updates concerning this amount;

(6) agree that the qualified venture firm will publicize its participation in the New Jersey Innovation Evergreen Fund; and

(7) consent to the authority publicly disclosing the list of qualified investment firms participating in the program.

c. A qualified venture firm that has made and entered into an agreement with the authority in accordance with subsection b. of this section is authorized to make qualified investments of capital in one or more qualified businesses from fund money allocated to the qualified venture firm by the authority at the times, in the amounts, and subject to the terms and conditions that the qualified venture firm determines to be necessary and appropriate. The authority may limit the amount of allocated fund money that a qualified venture firm invests in a qualified business based upon the size of investments the qualified business has received, the source of the investments, and the industry in which the qualified business is engaged.

46. (New section) a. A qualified venture firm shall annually report to the authority:

(1) the amount of the qualified investment, if any, uninvested at the end of the preceding calendar year;

(2) all qualified investments made during the preceding calendar year, including the number and wages of employees of each qualified business at the time the venture firm made the qualified investment and as of December 31 of that year;

(3) for any qualified investment in which the qualified venture firm no longer has a position as of the end of the calendar year, the number of employees of the business as of the date the investment was terminated;

(4) financials, audited by a certified public accountant, of the qualified venture firm and the special purpose vehicle that include a consolidated summary of the performance of the qualified venture firm. Any information about the performance of an individual business, including the qualified

business, shall be considered confidential and not subject to P.L.1963, c.73 (C.47:1A-1 et seq.), known commonly as the open public records act; and

(5) any other information the authority requires to ascertain the impact of the program on the economy of the State.

b. With respect to the information required under paragraphs (1) through (4) of subsection a. of this section, the report shall include a statement prepared by a certified public accountant, who is licensed in accordance with the "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with the laws of another state, certifying that the accountant has reviewed the report and that the information and representations contained in the report are accurate.

c. Not later than 60 days after the sale or other disposition of a qualified investment, the qualified venture firm shall provide to the authority a report on the amount of the stock sold or disposed of and the consideration received for the sale or disposition. Such report should detail the cumulative effect of sequentially introduced positive or negative values and include the gross income and details of any offsetting fees that reduce the net distribution. Any dividend or proceeds received by the authority for the sale or other disposition of a qualified investment shall be deposited into the fund and used in accordance with section 38 of P.L. , c. (C.) (pending before the Legislature as this bill).

47. (New section) The New Jersey Innovation Evergreen Advisory Board is established in but not of the authority for the purposes of providing guidance and networking opportunities to qualified businesses. The members shall

serve in a voluntary capacity, to be appointed through a process to be determined by the chief executive officer of the authority from among purchasers and other strategic partners identified by the chief executive officer, to support the State's innovation ecosystem. The terms of the voluntary members so appointed, after the initial appointments, shall be one year, and each member may be reappointed.

48. (New section) Beginning the year next following the year in which P.L. , c. (pending before the Legislature as this bill) takes effect and every two years thereafter, the authority shall prepare a report on the implementation of the program, and submit the report to the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial report required under this section shall include the names and locations of qualified businesses receiving capital; the amount of each qualified investment; a report by a certified public accountant of the consolidated performance of the fund; the cumulative amount of capital committed by purchasers; the rate and amount of fees charged by each qualified venture firm, including performance-based earnings and carried interest; the classification of each qualified business, according to the industrial sector and the size of the qualified business; the State's return on investment; the total number of jobs created in the State by the qualified business after the qualified investment; the average wages paid for the jobs; and any other metrics the authority determines are relevant based upon national best practices.

49. (New section) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive

officer of the authority may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer deems necessary to implement the provisions of sections 35 through 49 of P.L. , c. (C.) (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

50. (New section) Sections 50 through 60 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "Brownfields Redevelopment Incentive Program Act."

51. (New section) As used in sections 50 through 60 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

"Board" means the Board of the New Jersey Economic Development Authority appointed pursuant to subsection b. of section 4 of P.L.1974, c.80 (C.34:1B-4).

"Brownfield site" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant or on which there is a contaminated building.

"Building services" means any cleaning or routine building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash,

window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Contaminated building" means a structure upon which abatement or removal of asbestos, polychlorinated biphenyls, contaminated wood or paint, and other infrastructure remedial activities is necessary.

"Contamination" or "contaminant" means any discharged hazardous substance as defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or hazardous building material, including, but not limited to, asbestos, lead paint, and polychlorinated biphenyl.

"Department" means the Department of Environmental Protection.

"Developer" means any person that enters or proposes to enter into a redevelopment agreement with the authority pursuant to the provisions of section 54 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

"Licensed site remediation professional" means an individual who is licensed by the Site Remediation Professional Licensing Board pursuant to section 7 of

P.L.2009, c.60 (C.58:10C-7) or the department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

"Program" means the Brownfields Redevelopment Incentive Program established by section 52 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Project financing gap" means the part of the total remediation cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total remediation cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources.

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

"Redevelopment agreement" means an agreement between the authority and a developer under which the developer agrees to perform any work or undertaking necessary for the remediation of a contaminated site located at the site of the redevelopment project, and for the clearance, development or redevelopment, construction, or rehabilitation of any structure or improvement of commercial, industrial, or public structures or improvements within an area of land whereon a brownfield site is located.

"Redevelopment project" means a specific construction project or improvement undertaken, pursuant to the terms of a redevelopment

agreement, by a developer within an area of land whereon a contaminated site is located. A redevelopment project may involve construction or improvement upon lands, buildings, improvements, or real and personal property, or any interest therein, including lands under water, riparian rights, space rights, and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved.

"Remediation" or "remediate" means all necessary actions to investigate and clean up or respond to any known, suspected, or threatened discharge of contaminants, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, as those terms are defined in section 23 of P.L.1993, c.139 (C.58:10B-1); provided, however, "remediation" or "remediate" shall not include the payment of compensation for damage to, or loss of, natural resources.

"Remediation costs" means all reasonable costs associated with the remediation of a contaminated site, except any costs incurred in financing the remediation.

"Response action outcome" means a written determination by a licensed site remediation professional that the contaminated site was remediated in accordance with all applicable statutes and regulations, and based upon an evaluation of the historical use of the site, or of any area of concern at that site, as applicable, and any other investigation or action the department deems necessary, there are no contaminants present at the site, or at any area of concern, at any other site to which a discharge originating at the site has migrated, or that any contaminants present at the site or that have migrated from the site have been remediated in accordance with applicable remediation

regulations, and all applicable permits and authorizations have been obtained.

52. (New section) The Brownfields Redevelopment Incentive Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The purpose of the program is to compensate developers of redevelopment projects located on brownfield sites for remediation costs. To implement this purpose, the authority shall issue tax credits. The total value of tax credits approved by the authority shall not exceed an aggregate annual limit of \$20,000,000 for a calendar year. For the purpose of determining the aggregate value of tax credits approved in a calendar year, a tax credit shall be deemed to have been approved at the time the director allows a tax credit to a developer pursuant to section 57 of P.L. , c. (C.) (pending before the Legislature as this bill) following completion of the redevelopment project.

53. (New section) a. Prior to July 1, 2024, a developer seeking a tax credit for a redevelopment project shall submit an application to the authority and the department in a form and manner prescribed in regulations adopted by the authority, in consultation with the department, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. A redevelopment project shall be eligible for a tax credit only if the developer demonstrates to the authority and the department at the time of application that:

(1) the developer has not commenced any remediation or clean up at the site of the redevelopment project prior to applying for a tax credit pursuant to this section, but intends to remediate and redevelop the site immediately

upon approval of the tax credit;

(2) the redevelopment project is located on a brownfield site;

(3) without the tax credit, the redevelopment project is not economically feasible;

(4) a project financing gap exists; and

(5) the developer has obtained and submitted to the authority a letter evidencing support for the redevelopment project from the governing body of the municipality in which the redevelopment project is located.

c. A redevelopment project that received a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) shall not be eligible to apply for a tax credit under the program. If the authority receives an application and supporting documentation for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), then the authority may consider the application and award an incentive grant to a developer, provided that the authority shall take final action on all applications for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) no later than the effective date of P.L. , c. (C.) (pending before the Legislature as this bill). No applications shall be submitted pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

d. The authority, in consultation with the department, may impose additional requirements upon

an applicant through rule or regulation adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority or the department determines the additional requirements to be necessary and appropriate to effectuate the purposes of sections 49 through 60 of P.L. , c. (C.) (pending before the Legislature as this bill).

e. The authority, in consultation with the department, shall conduct a review of the applications through a competitive application process whereby the authority and the department shall evaluate all applications submitted by a date certain as if submitted on that date. In addition to the eligibility criteria set forth in subsection b. of this section, the authority may consider additional factors that include, but shall not be limited to: the economic feasibility of the remediation project; the benefit of the remediation project to the community in which the remediation project is located; and the degree to which the remediation project enhances and promotes job creation and economic development and addresses environmental concerns of communities that have been historically and disproportionately impacted by environmental hazards. The authority, in consultation with the department, shall submit applications, which comply with the eligibility criteria set forth in this section, fulfill the additional factors considered by the authority pursuant to this subsection, satisfy the submission requirements, and provide adequate information for the subject application, to the board for final approval.

f. The authority shall allocate tax credits to redevelopment projects until either the available tax credits are exhausted or all

redevelopment projects that are eligible for a tax credit pursuant to the provisions of sections 50 through 60 of P.L. , c. (C.) (pending before the Legislature as this bill) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a developer in accordance with the provisions of subsection a. of section 57 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority may offer the developer a value of the tax credit below the amount provided for in subsection a. of section 57 of P.L. , c. (C.) (pending before the Legislature as this bill).

g. A developer shall pay to the authority or to the department, as appropriate, the full amount of the direct costs of an analysis concerning the developer's application for a tax credit, which a third party retained by the authority or department performs, if the authority or department deems such retention to be necessary.

h. If the authority determines that a developer made a material misrepresentation on the developer's application, the developer shall forfeit all tax credits awarded under the program.

i. If circumstances require a developer to amend its application to the authority, then the developer, or an authorized agent of the developer, shall certify to the authority that the information provided in its amended application is true under the penalty of perjury.

54. (New section) a. Prior to approval of an application by the board, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the developer is in good standing with the respective department. The authority may

also contract with an independent third party to perform a background check on the developer. Provided that the developer is in good standing, following approval of an application by the board, but prior to the start of any remediation or clean up at the site of the redevelopment project, the authority shall enter into a redevelopment agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the redevelopment agreement on behalf of the State.

b. The redevelopment agreement shall specify the amount of the tax credit to be awarded to the developer, the date on which the developer shall complete the remediation, and the projected project remediation cost. The agreement shall require the developer to submit progress reports to the authority and to the department every six months pursuant to section 56 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The authority shall not enter into a redevelopment agreement with a developer unless:

(1) the redevelopment project complies with standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction;

(2) the redevelopment project complies with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.203 (C.34:1B-5.4); and

(3) for the period of time specified in subsection b. of section 60 of P.L. , c. (C.) (pending before the Legislature as this bill), the developer pays each worker employed to perform remediation work, construction work, or building services work at the redevelopment project premises not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the redevelopment project, or the aggregate of all redevelopment projects approved for an award under the program, constitute a lease of more than 55 percent of a building owned or controlled by the developer, the requirements set forth in this paragraph shall apply to the entire building.

d. The authority shall not enter into a redevelopment agreement with a developer who is liable, pursuant to paragraph (1) of subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), for the contamination at the brownfield site proposed to be in the redevelopment agreement.

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

(2) The authority may enter into a redevelopment agreement with a developer without the labor harmony agreement required under paragraph (1) of this subsection only if the authority determines that the redevelopment project would not be able to go forward if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) As used in this subsection, "labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or

organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

f. The redevelopment agreement shall provide that issuance of a tax credit under the program shall be conditioned upon the subrogation to the department of all rights of the developer to recover remediation costs from any other person who discharges a hazardous substance or is in any way responsible for a hazardous substance, pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g), that was discharged at the brownfield site.

g. The redevelopment agreement shall provide that each worker employed by the developer or subcontractor of a developer working in a redevelopment project, 80 percent or more of which is operated by the developer, shall be paid not less than \$15 per hour or 120percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

h. The redevelopment agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that demonstrating the developer is in good standing with said department and a provision allowing authority to recapture the tax credits for any year in which any such report is not received. The incentive grant agreement shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

i. A developer may seek an amendment to the redevelopment agreement if the developer cannot complete the remediation on or before the date set forth in the redevelopment agreement. A developer's ability to change the date on which the developer shall complete the remediation shall be subject to the availability of tax credits in the year of the revised date of completion.

55. (New section) To qualify for a tax credit under the program, a developer shall:

a. enter into a memorandum of agreement or other oversight document with the Commissioner of Environmental Protection in accordance with the provisions of section 37 of P.L.1997, c.278 (C.58:10B-29) following the execution of a redevelopment agreement; or

b. comply with the requirements set forth in subsection b. of section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of the site of the redevelopment project.

56. (New section) Commencing with the date six months following the date the authority and a developer executes a redevelopment agreement and every six months thereafter until completion of the project, the developer shall submit an update of the status of the redevelopment project to the authority and to the department, including the remediation costs incurred by the developer for the remediation of the contaminated property located at the site of the redevelopment project. Unless the authority determines that extenuating circumstances exist, the authority's approval of a tax credit shall expire if the authority, the department, or both, do not timely receive the status update required under this section. The authority may rescind an award of tax credits under the program if a redevelopment project fails to

advance in accordance with the redevelopment agreement.

57. (New section) a. Upon completion of the redevelopment project, the developer shall seek certification from the department that:

(1) the redevelopment project is complete;

(2) the developer complied with the requirements of section 55 of P.L. , c. (C.) (pending before the Legislature as this bill), including the requirements of any memorandum of agreement or other oversight document that the developer may have executed with the Commissioner of Environmental Protection pursuant to that section; and

(3) the remediation costs were actually and reasonably incurred.

Upon receipt of certification, and confirmation by the authority that the developer's obligations under the redevelopment agreement have been met, a developer shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount not to exceed 40 percent of the actual remediation costs, 40 percent of the projected remediation costs set forth in the redevelopment agreement, or \$4,000,000, whichever is less. The authority shall allow an additional five percent of the actual remediation costs or five percent of the projected remediation costs, whichever is less, to a redevelopment project for which the developer has entered into a project labor agreement.

(4) The developer, or an authorized agent of the developer, shall certify that the information provided to the department and the authority pursuant to this subsection is true under the penalty of perjury. Claims, records, or statements submitted by a developer to the authority in order to

receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

b. When filing an application for certification pursuant to subsection a. of this section, the developer shall submit to the director the total remediation costs incurred by the developer for the remediation of the subject property located at the site of the redevelopment project as provided in the redevelopment agreement and certified by a certified public accountant, information concerning the occupancy rate of the buildings or other work areas located on the property subject to the redevelopment agreement, and such other information as the director deems necessary in order to make the certifications and findings pursuant to this section.

c. A developer shall apply the credit awarded against the developer's liability under section 5 of P.L.1945, c.162 (C.54:10A-5) sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during which the director allows the developer a tax credit pursuant to subsection a. of this section. A developer shall not carry forward an unused credit. Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the director accompanied by any additional information as the director may prescribe.

d. The director shall prescribe the order of priority of the application of the credit allowed under this section and any other credits allowed by law against the tax imposed under section 5 of

P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

58. (New section) a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, in the privilege period during which the director allows the developer a tax credit pursuant to section 57 of P.L. , c. (C.) (pending before the Legislature as this bill), in lieu of the developer being allowed to apply any amount of the tax credit against the developer's State tax liability. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate provided to the developer shall include a statement waiving the developer's right to claim the credit that the developer has elected to sell or assign.

b. The developer shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further

discounting to present value which shall be permitted. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 57 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other terms and conditions that the director may prescribe.

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

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

(1) the name of the transferrer;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate; and

(4) the consideration received by the transferrer.

59. (New section) Beginning the year next following the year in which P.L. , c. (pending before the Legislature as this bill) takes effect and every two years thereafter, a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant to an agreement executed between the State college or university and the authority, prepare a report on the implementation of the program, and submit the report to the authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the

Legislature. Each biennial report required under this section shall include a description of each redevelopment project receiving a tax credit under the program, a detailed analysis of the consideration given in each project to the factors set forth in sections 53 and 54 of P.L. , c. (C.) (pending before the Legislature as this bill), the return on investment for incentives awarded, the redevelopment project's impact on the State's economy, and any other metrics the State college or university determines are relevant based upon national best practices. The authority shall prepare a written response to the report, which the authority shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

60. (New section) a. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority, in consultation with the Commissioner of Environmental Protection, may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer and commissioner deem necessary to implement the provisions of sections 50 through 60 of P.L. , c. (C.) (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer, in consultation with the Commissioner of Environmental Protection, shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

b. If, before the end of five full years after the completion of the redevelopment project, a developer that has received a tax credit pursuant to

sections 50 through 60 of P.L. , c. (C.) (pending before the Legislature as this bill) modifies the redevelopment project or the operation of the redevelopment project so that it ceases to meet the requirements for a redevelopment project as defined under the program or fails to meet the requirements of the redevelopment agreement, then the tax credit allowed under the program shall be recaptured in accordance with the rules adopted pursuant to subsection a. of this section.

61. (New section) Sections 61 through 71 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "Historic Preservation Tax Credit Program Act."

62. (New section) As used in sections 61 through 71 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

"Board" means the Board of the New Jersey Economic Development Authority appointed pursuant to subsection b. of section 4 of P.L.1974, c.80 (C.34:1B-4).

"Building services" means any cleaning or routine building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as

defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

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

"Cost of rehabilitation" means the consideration given, valued in money, whether given in money or otherwise, for the materials and services that are directly related to the repair or improvement of structural and architectural features of a qualified property, and which may include structural components such as: walls, partitions, floors, ceilings, permanent coverings such as paneling or tiling, windows, and doors, components of central air conditioning or heating systems, plumbing and plumbing fixtures, electrical wiring and lighting fixtures, chimneys, stairs, escalators, elevators, sprinkler systems, fire escapes, and other components related to the operation or maintenance of the building. In addition, expenses that qualify may include construction period interest and taxes, architect fees, engineering fees, construction management costs, reasonable developer fees, and any other fees paid that would normally be charged to a capital account.

"Developer" means an owner or lessee of a qualified property that enters or proposes to enter into a rehabilitation agreement with the authority pursuant to the provisions of section 65 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

"Income producing property" means a structure or site that is used in a trade or business or to produce rental income.

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

"Officer" means the State Historic Preservation Officer or the official within the State designated by the Governor or by statute in accordance with the provisions of the "National Historic Preservation Act," Pub.L.89-665 (54 USCS s.300101et seq.), to act as liaison for the purpose of administering historic preservation programs in the State.

"Program" means the Historic Preservation Tax Credit Program established by section 63 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Project financing gap" means the part of the total cost of rehabilitation, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed

capital, which shall not be less than 20 percent of the total cost of rehabilitation, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources.

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

"Qualified property" means an income producing property associated with the history of New Jersey that is on the State or National Register of Historic Places or is eligible for placement on the State or national register.

"Rehabilitation agreement" means an agreement between the authority and a developer under which the developer agrees to perform any work or undertaking necessary for the rehabilitation of a qualified property, and for the clearance, development or redevelopment, construction, or rehabilitation of any structure or improvement of residential, commercial, industrial, or public structures or improvements appurtenant to the qualified property.

"Rehabilitation project" means the repair or reconstruction of the exterior or interior of a qualified property to make an efficient contemporary use possible while preserving the portions or features of the qualified property that have significant historical, architectural, and cultural value as determined by the officer.

63. (New section) The Historic Preservation Tax Credit Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development

Authority. The purpose of the program is to reimburse developers that rehabilitate historic buildings for a portion of the cost of rehabilitation. To implement this purpose, the authority shall issue tax credits. The total value of tax credits approved by the authority shall not exceed an aggregate annual limit of \$20,000,000 for a calendar year. For the purpose of determining the aggregate value of tax credits approved in a calendar year, a tax credit shall be deemed to have been approved at the time the director allows a tax credit to a developer pursuant to section 67 of P.L. , c. (C.) (pending before the Legislature as this bill) following completion of the rehabilitation project.

64. (New section) a. Prior to July 1, 2024, a developer seeking a tax credit for a rehabilitation project shall submit an application to the authority and to the officer in a form and manner prescribed in regulations adopted by the authority, in consultation with the officer, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. A rehabilitation project shall be eligible for a tax credit only if the developer demonstrates to the authority at the time of application that:

(1) the developer has not commenced any rehabilitation or construction work at the qualified property prior to applying for a tax credit pursuant to this section, but intends to redevelop the qualified property immediately upon approval of the tax credit;

(2) without the tax credit, the rehabilitation project is not economically feasible; and

(3) a project financing gap exists.

c. The authority, in consultation with the officer,

may impose additional requirements upon an applicant through rule or regulation adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority or the officer determines the additional requirements to be necessary and appropriate to effectuate the purposes of sections 61 through 71 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. The authority, in consultation with the officer, shall conduct a review of the applications through a competitive application process whereby the authority and the officer shall evaluate all applications submitted by a date certain as if submitted on that date. The authority, in consultation with the officer, shall submit applications, which comply with the eligibility criteria set forth in this section, satisfy the submission requirements, and provide adequate information for the subject application, to the board for final approval.

e. The authority shall allocate tax credits to rehabilitation projects until either the available tax credits are exhausted or all rehabilitation projects that are eligible for a tax credit pursuant to the provisions of sections 61 through 71 of P.L. , c. (C.) (pending before the Legislature as this bill) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a developer in accordance with the provisions of subsection a. of section 67 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority may offer the developer a value of tax credits below the amount provided for in subsection a. of section 67 of P.L. , c. (C.) (pending before the Legislature as this bill).

f. A developer shall pay to the authority and officer, as appropriate, fees to cover the administrative costs related to the tax credit. A developer shall pay to the authority or to the officer, as appropriate, the full amount of the direct costs of an analysis concerning the developer's application for a tax credit, which a third party retained by the authority or officer performs, if the authority or officer deems such retention to be necessary.

g. If the authority determines that a developer made a material misrepresentation on the developer's application, the developer shall forfeit all tax credits awarded under the program.

h. If circumstances require a developer to amend its application to the authority, then the developer, or an authorized agent of the developer, shall certify to the authority that the information provided in its amended application is true under the penalty of perjury.

65. (New section) a. Prior to approval of an application by the board, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer whether the developer is in good standing with the respective department. The authority may also contract with an independent third party to perform a background check on the developer. Following approval of an application by the board, but prior to the start of any construction or rehabilitation at the qualified property, the authority shall enter into a rehabilitation agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the rehabilitation agreement on behalf of the State.

b. The rehabilitation agreement shall specify the amount of the tax credit to be awarded to the developer, the date on which the developer intends or projects to complete the rehabilitation project, and the projected cost of rehabilitation. The agreement shall require the developer to submit progress reports to the authority and to the officer every six months pursuant to section 66 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The authority shall not enter into a rehabilitation agreement with a developer unless:

(1) the rehabilitation project complies with standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction;

(2) the rehabilitation project complies with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.203 (C.34:1B-5.4);

(3) the developer pays each worker employed to perform rehabilitation work, construction work, or building services work at the rehabilitation project premises not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the rehabilitation project, or the aggregate of all rehabilitation projects approved for an award under the program, constitute a

lease of more than 55 percent of a building owned or controlled by the developer, the requirement set forth in this paragraph shall apply to the entire building; and

(4) the rehabilitation agreement provides that each worker employed by the developer or subcontractor of a developer working in a rehabilitation project, 80 percent or more of which is operated by the developer shall be paid not less than \$15 per hour or 120 percent of minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

d. The rehabilitation agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury demonstrating that the developer is in good standing with said department and a provision allowing the authority to recapture tax credits for any year in which any such report is not received. The incentive grant agreement shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

e. (1) Except as provided in paragraph (2) of this subsection, the authority shall not enter into a rehabilitation agreement for a rehabilitation project that includes at least one retail establishment which will have more than 10 employees, or at least one distribution center which will have more than 20 employees, unless the rehabilitation agreement includes a precondition that any business that serves as the owner or operator of the retail establishment or distribution center enters into a labor harmony agreement with a labor organization or cooperating labor

organizations which represent retail or distribution center employees in the State.

(2) The authority may enter into a rehabilitation agreement with a developer without the labor harmony agreement required under paragraph (1) of this subsection only if the authority determines that the rehabilitation project would not be able to go forward if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) As used in this subsection, "labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their

representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

f. A developer may seek an amendment to the rehabilitation agreement if the developer cannot complete the rehabilitation project on or before the date set forth in the rehabilitation agreement. A developer's ability to change the date on which the developer shall complete the rehabilitation project shall be subject to the availability of tax credits in the year of the revised date of completion.

66. (New section) Commencing with the date six months following the date the authority and a developer executes a rehabilitation agreement and every six months thereafter until completion of the rehabilitation project, the developer shall submit an update of the status of the rehabilitation project to the authority and to the officer, including the cost of rehabilitation. Unless the authority determines that extenuating circumstances exist, the authority's approval of a tax credit shall expire if the authority, the officer, or both, do not timely receive the status update required under this section. The authority may recapture or rescind an award of tax credits under the program if a rehabilitation project fails to advance in accordance with the rehabilitation agreement.

67. (New section) a. (1) Upon completion of the rehabilitation project, the officer shall certify to the authority the total cost of rehabilitation, that the property meets the definition

of a qualified property, and that the developer completed the rehabilitation project in substantial compliance with the requirements of the Secretary of the Interior's Standards of Rehabilitation, 36 C.F.R. s.67.7. The developer, or an authorized agent of the developer, shall certify that the information provided pursuant to this paragraph is true under the penalty of perjury. Upon receipt of the certification from the officer, the authority shall allow a developer a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 16 percent of the actual cost of rehabilitation or 16 percent of the projected cost of rehabilitation set forth in the rehabilitation agreement, whichever is less. Claims, records, or statements submitted by a developer to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

(2) The amount of the tax credit allowed pursuant to paragraph (1) of this section shall be increased as follows:

(a) for a rehabilitation project in which at least 20 percent of the residential units constructed for occupancy are reserved for occupancy by low- and moderate-income households with affordability controls as required under the rules of the Council on Affordable Housing or court order, an increase of four percent of the actual cost of rehabilitation or four percent of the projected cost of rehabilitation set forth in the rehabilitation agreement, whichever is less;

(b) for a rehabilitation project that includes a collaborative workspace or an incubator facility, an increase of four percent of the actual cost of rehabilitation or four percent of the projected cost of

rehabilitation set forth in the rehabilitation agreement, whichever is less; and

(c) for a rehabilitation project for which the developer has entered into a project labor agreement, an increase of four percent of the actual cost of rehabilitation or four percent of the projected cost of rehabilitation set forth in the rehabilitation agreement, whichever is less, which increase shall not be included in any limitation imposed in paragraph (3) of this subsection.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the director shall not allow a tax credit to a developer in excess of \$4,000,000 for a rehabilitation project.

b. A developer shall apply the credit awarded against the developer's liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during which the director allows the developer a tax credit pursuant to subsection a. of this section. A developer shall not carry forward an unused credit. Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the director accompanied by any additional information as the director may prescribe.

c. The director shall prescribe the order of priority of the application of the credit allowed under this section and any other credits allowed by law against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied under this section against the tax imposed

pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

68. (New section) a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, in the privilege period during which the director allows the developer a tax credit pursuant to section 67 of P.L. , c. (C.) (pending before the Legislature as this bill), in lieu of the developer being allowed to apply any amount of the tax credit against the developer's State tax liability. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) , sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate provided to the developer shall include a statement waiving the developer's right to claim the credit that the developer has elected to sell or assign.

b. The developer shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 80 percent of the transferred credit amount. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of

State tax credits pursuant to section 67 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other terms and conditions that the director may prescribe.

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

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

(1) the name of the transferrer;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate; and

(4) the consideration received by the transferrer.

69. (New section) a. The authority, in collaboration with the officer and the director, shall adopt rules for the recapture of a tax credit allowed under the program. The rules shall require the authority to notify the director of the recapture of the tax credit. The recapture of funds shall be subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq., and recaptured funds shall be deposited in the General Fund of the State.

b. If, before the end of five full years after the completion of the rehabilitation of the qualified property, a developer that has received a tax credit pursuant to section 67 of P.L. , c. (C.) (pending before the Legislature as this bill) modifies the qualified

property so that it ceases to meet the requirements for the rehabilitation of a qualified property as defined under the program or ceases to meet the requirement of the rehabilitation agreement then the tax credit allowed under the program shall be recaptured in accordance with the rules adopted pursuant to subsection a. of this section.

70. (New section) Beginning the year next following the year in which P.L. , c. (pending before the Legislature as this bill) takes effect and every two years thereafter, a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant to an agreement executed between the State college or university and the authority, prepare a report on the implementation of the program, and submit the report to the authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial report required under this section shall include a description of each rehabilitation project receiving a tax credit under the program, a detailed analysis of the consideration given in each project to the factors set forth in sections 64 and 65 of P.L. , c. (C.) (pending before the Legislature as this bill), the return on investment for incentives awarded, the rehabilitation project's impact on the State's economy, and any other metrics the State college or university determines are relevant based upon national best practices. The authority shall prepare a written response to the report, which the authority shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

71. (New section) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority, in consultation with the officer, may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer and officer deem necessary to implement the provisions of sections 61 through 71 of P.L. , c. (C.) (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer, in consultation with the officer, may thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.)."

<u>Page 2, Section 1, Lines 8-46:</u>	Delete in their entirety
<u>Page 3, Section 1, Lines 1-47:</u>	Delete in their entirety
<u>Page 4, Section 1, Lines 1-48:</u>	Delete in their entirety
<u>Page 5, Section 1, Lines 1-48:</u>	Delete in their entirety
<u>Page 6, Section 1, Lines 1-4:</u>	Delete in their entirety
<u>Page 6, Section 2, Lines 6-47:</u>	Delete in their entirety
<u>Page 7, Section 2, Lines 1-17:</u>	Delete in their entirety
<u>Page 7, Section 3, Lines 19-48:</u>	Delete in their entirety
<u>Page 8, Section 3, Lines 1-4:</u>	Delete in their entirety
<u>Page 8, Section 4, Lines 6-48:</u>	Delete in their entirety
<u>Page 9, Section 4, Lines 1-48:</u>	Delete in their entirety
<u>Page 10, Section 4, Lines 1-47:</u>	Delete in their entirety
<u>Page 11, Section 4, Lines 1-48:</u>	Delete in their entirety
<u>Page 12, Section 4, Lines 1-33:</u>	Delete in their entirety

Page 12, Section 5, Line 35:

Delete "5." and insert "72."

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor