

[Third Reprint]

ASSEMBLY, No. 2076

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

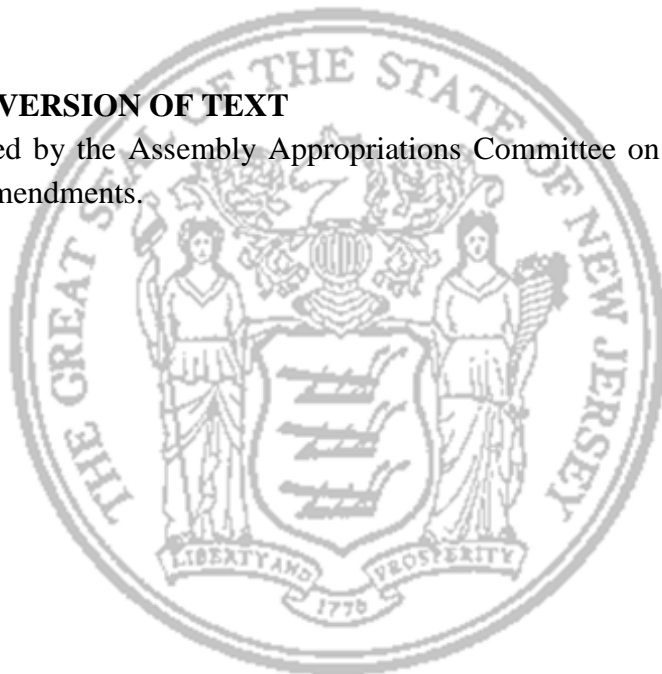
Assemblywomen Reynolds-Jackson and Speight

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on December 16, 2024, with amendments.



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

1 AN ACT concerning the New Jersey Aspire Program, amending
2 ³[various parts of the statutory law] P.L.2020, c.156 and
3 P.L.2023, c.98³, and supplementing P.L.2020, c.156.

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

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

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

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

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

17 "Aviation district" means all areas within the boundaries of the
18 Atlantic City International Airport, established pursuant to section
19 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
20 Administration William J. Hughes Technical Center and the area
21 within a one-mile radius of the outermost boundary of the Atlantic
22 City International Airport and the Federal Aviation Administration
23 William J. Hughes Technical Center ², and the Trenton-Mercer
24 Airport, established pursuant to R.S.40:8-2 and the area within a
25 one-mile radius of the outermost boundary of the ³[terminal located
26 at 1100 Terminal Circle Drive, Ewing Township²] Trenton-Mercer
27 Airport³.

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

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

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

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

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACE committee amendments adopted May 13, 2024.

²Assembly AAP committee amendments adopted June 24, 2024.

³Assembly AAP committee amendments adopted December 16, 2024.

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

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

15 "Commercial project" means a redevelopment project, which is
16 predominantly commercial and, if located in a government-
17 restricted municipality, contains 25,000 or more square feet, or if
18 located in any other municipality, contains 50,000 or more square
19 feet of office and retail space, industrial space ²including ¹, but not
20 limited to, any industrial¹ space ¹that is¹ predominantly used for
21 warehouse distribution or fulfillment centers ¹and has at least \$10
22 million in environmental remediation costs¹², or film studios,
23 professional stages, television studios, recording studios, screening
24 rooms, or other infrastructure for film production, and may include
25 a parking component. The term "commercial project" includes a
26 redevelopment project comprised solely of a health care or health
27 services center, which contains not less than 10,000 square feet
28 devoted to health care or health services, and which may include a
29 parking component. ³The term "commercial project" also includes
30 an industrial space that is predominantly used for warehouse
31 distribution or fulfillment centers if the eligible project cost
32 includes at least \$10,000,000 in environmental remediation costs.³

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

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

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

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

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

9 "Eligibility period" means the period not to exceed ³[15] 10³
10 years ³[for a commercial or mixed-use project or the period not to
11 exceed 10 years for a residential project] , as³ specified in an
12 incentive award agreement during which a developer may claim a
13 tax credit under the program, as such period shall be determined by
14 the authority pursuant to subsection b. of section 60 of P.L.2020,
15 c.156 (C.34:1B-328) ³, provided that a developer may elect a period
16 not to exceed five years for a project located in a government-
17 restricted municipality or for a special mission non-profit project³.

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

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

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

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

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

1 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
 2 restricted in its ability to levy property taxes on property in that
 3 municipality as a result of the State of New Jersey owning or
 4 controlling property representing at least 25 percent of the total land
 5 area of the municipality or as a result of the federal government of
 6 the United States owning or controlling at least 50 acres of the total
 7 land area of the municipality, which is dedicated as a national
 8 natural landmark. ³The term "government-restricted municipality"
 9 also includes any municipality that: has a population greater than
 10 50,000 and less than 60,000 according to the latest federal decennial
 11 census, is designated as the county seat of a county of the second
 12 class with a population greater than 800,000 according to the latest
 13 federal decennial census, and has an MRI distress score of 62.1; has
 14 a population greater than 70,000 and less than 100,000 according to
 15 the latest federal decennial census, is designated as the county seat
 16 of a county of the second class with a population greater than
 17 515,000 and less than 525,000 according to the latest federal
 18 decennial census, and has an MRI distress score of 100; or contains
 19 the intersection of Interstate 280 and the Garden State Parkway, and
 20 corresponding land areas occupied by such highways under the
 21 ownership or control of the federal government of the United States
 22 or of this State within its municipal boundary, and has an MRI
 23 distress score of 55.5.³

24 "Health care or health services center" means an establishment
 25 that consists of not less than 10,000 square feet devoted to health
 26 care or health services, where patients are admitted for or seek
 27 examination and treatment by one or more physicians, dentists,
 28 psychologists, or other medical practitioners, and which is located
 29 in a municipality with a ³**【Municipal Revitalization Index】 MRI³**
 30 distress score of at least 50, a distressed municipality, or a qualified
 31 incentive tract.

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

35 "Incentive area" means an aviation district; a port district; an
 36 area designated pursuant to the "State Planning Act," P.L.1985,
 37 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan),
 38 Planning Area 2 (Suburban), **【or】³or³ a Designated Center³【,】³**
 39 **【provided an area designated as Planning Area 2 (Suburban) or a**
 40 **Designated Center shall be located within a one-half mile radius of**
 41 **the mid-point, with bicycle and pedestrian connectivity, of a New**
 42 **Jersey Transit Corporation, Port Authority Transit Corporation, or**
 43 **Port Authority Trans-Hudson Corporation rail, bus, or ferry station,**
 44 **including all light rail stations, or a high-frequency bus stop as**
 45 **certified by the New Jersey Transit Corporation】³【or an Endorsed**
 46 **Plan】 under the State Development and Redevelopment Plan³; an**

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

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

15 "Incentive award agreement" means the contract executed
16 between a developer and the authority pursuant to section 60 of
17 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
18 conditions under which the developer may receive the incentive
19 awards authorized pursuant to the provisions of sections 54 through
20 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

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

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

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

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

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

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

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

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

39 ³["Mixed-use project" means a redevelopment project that
40 includes both a residential component and a nonresidential
41 component.]³

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

1 the same size within the housing region in which the housing is
2 located.

3 ³"MRI distress score" means a municipal revitalization index
4 distress score, as documented in the 2023 Municipal Revitalization
5 Index developed by the Department of Community Affairs.³

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

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

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

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

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

23 "Project cost" or "²**[total]** eligible² project cost" means the costs
24 incurred in connection with a redevelopment project by a developer
25 until the issuance of a permanent certificate of occupancy, or until
26 such other time specified by the authority, for a specific investment
27 or improvement, including the costs relating to lands, except the
28 cost of acquiring such lands, buildings, improvements, real or
29 personal property, or any interest therein, including leases
30 discounted to present value, including lands under water, riparian
31 rights, space rights, and air rights acquired, owned, developed or
32 redeveloped, constructed, reconstructed, rehabilitated, or improved,
33 any environmental remediation costs, plus costs not directly related
34 to construction, including capitalized interest paid to third parties,
35 of an amount not to exceed 20 percent of the total costs and the cost
36 of infrastructure improvements, including ancillary infrastructure
37 projects. When 100 percent of the residential units constructed in a
38 residential project are reserved for occupancy by low- and
39 moderate-income households, the term "project cost" shall also
40 include the developer fees paid before acquiring permanent
41 financing, as well as the deferred developer fees approved pursuant
42 to the rules established by the agency. In addition to the foregoing,
43 the term "project cost" shall include ³**[the following costs when**
44 incurred by a developer],³ for a redevelopment project located in a
45 ³**[government restricted]** government-restricted³ municipality ³**[:**
46 any development, redevelopment, and relocation costs, including,
47 but not limited to]³, land ²**[and]** costs ³**[,** which land costs shall be

1 capped at no more than] in an amount not to exceed³ 20 percent of
2 the ³[total] eligible³ project cost ³[, ² building acquisition costs;
3 ²carrying costs and interest expenses on construction loans and
4 other financing up to project completion;² any soft costs, including
5 engineering, legal, accounting, and other professional services
6 required for the completion of the project; any environmental
7 remediation costs; and any infrastructure improvement for the
8 project area, including, but not limited to, costs of on- and off-site
9 utility, road, pier, wharf, bulkhead, or sidewalk construction or
10 repair]³. The fees associated with the application or administration
11 of a grant under sections 54 through 67 of P.L.2020, c.156
12 (C.34:1B-322 through 34:1B-335) shall not constitute a project cost
13 ³[, regardless of the location of the redevelopment project]³.

14 "Project financing gap" means the part of the total project cost,
15 including reasonable and appropriate return on investment, that
16 remains to be financed after all other sources of capital have been
17 accounted for, including, but not limited to developer contributed
18 capital, which shall not be less than 20 percent of the ²[total]²
19 ³total³ project cost, and investor or financial entity capital or loans
20 for which the developer, after making all good faith efforts to raise
21 additional capital, certifies that additional capital cannot be raised
22 from other sources on a non-recourse basis; provided, however, that
23 for a redevelopment project located in a government-restricted
24 municipality, the developer contributed capital shall not be less than
25 10 percent of the ²[total]² ³total³ project cost. Developer
26 contributed capital may consist of cash, deferred development fees,
27 costs for project feasibility incurred within the 12 months prior to
28 application, property value less any mortgages when the developer
29 owns the project site, and any other investment by the developer in
30 the project deemed acceptable by the authority, as provided by
31 regulations promulgated by the authority. Property value shall be
32 valued at the lesser of: (i) the purchase price, provided the property
33 was purchased pursuant to an arm's length transaction within 12
34 months of application; or (ii) the value as determined by a current
35 appraisal.

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

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

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

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

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

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

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

41 "SDA municipality" means a municipality in which an SDA
42 district is situated.

43 ²"Special mission non-profit project" means a project located in
44 a government-restricted municipality or in an enhanced area that:
45 serves a special mission, as determined by the authority, to
46 accomplish the public purpose of a non-profit that is a developer of
47 or is affiliated with the project; and includes no more than 100 units

1 of 100 percent ³[affordable] supportive³ housing units ³for tenants
 2 requiring special needs or social services, which social services may
 3 include licensed social workers,³ and no more than ³[10,000]
 4 25,000³ square feet of commercial space ³for the provision of on-
 5 site social service programs that require a license from the
 6 Department of Children and Families as a licensed child care center.
 7 Special mission non-profit projects shall be exempt from the net
 8 benefit test requirement, affordable housing requirements, and the
 9 requirement to provide a market study as part of its application to
 10 the authority³ .²

11 ³["Stranded asset" means any building previously used for
 12 commercial, retail, office space, manufacturing, or industrial
 13 purposes, which building is no longer used for such purposes, and
 14 which has been abandoned, experienced significant vacancies for at
 15 least two consecutive years, or has fallen into such disrepair as to be
 16 untenantable. ²"Stranded asset" includes vacant land that has been
 17 left fallow for at least two consecutive years because of
 18 environmental contamination.

19 "Targeted industry" means any industry identified from time to
 20 time by the authority, which industry shall initially include
 21 advanced transportation and logistics, advanced manufacturing,
 22 aviation, autonomous vehicle and zero-emission vehicle research or
 23 development, clean energy, life sciences, hemp processing,
 24 information and high technology, finance and insurance,
 25 professional services, film and digital media, non-retail food and
 26 beverage businesses including food innovation, and other
 27 innovative industries that disrupt current technologies or business
 28 models. ²]³

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

38 "Total [project] ²[development] project² cost" ²[or "total
 39 redevelopment cost"]² means the costs incurred in connection with
 40 the redevelopment project by the developer until the issuance of a
 41 permanent certificate of occupancy, or upon such other event
 42 evidencing project completion as set forth in the incentive grant
 43 agreement, for a specific investment or improvement.

44 "Tourism destination project" means a non-gaming business
 45 facility that will be among the most visited privately owned or
 46 operated tourism or recreation sites in the State, and which has been

1 determined by the authority to be in an area appropriate for
2 development and in need of economic development incentive
3 assistance, including a non-gaming business within an established
4 Tourism District with a significant impact on the economic viability
5 of that district.

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

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

19 "Transit Village" means a municipality that has been designated
20 as a transit village by the Commissioner of Transportation and the
21 Transit Village Task Force ²[established pursuant to P.L.1985,
22 c.398 (C.27:1A-5)]².

23 (cf: P.L.2023, c.98, s.1)
24

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

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

39 (2) The authority, in consultation with the agency, shall adopt
40 rules and regulations, pursuant to subsection b. of section 67 of
41 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
42 administration of the affordability controls that shall apply to the
43 residential units constructed for occupancy by low- and moderate-
44 income households under the program, including, but not limited to,
45 residential units within residential projects that utilize federal low-
46 income housing tax credits awarded by the agency.
47 Notwithstanding any provision of law or regulation to the contrary,

1 the affordability controls shall, at a minimum, be consistent with the
2 affordability controls established in the rules and regulations
3 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
4 (C.52:27D-301 et al.), as in effect immediately prior to the effective
5 date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not
6 limited to, any requirements concerning the ~~bedroom~~
7 ~~distributions,~~ ³bedroom distributions,³ affordability averages,
8 affirmative marketing, and long-term deed restrictions of residential
9 units constructed for occupancy by low- and moderate-income
10 households ³, except not including the bedroom distribution
11 requirements for three-bedroom housing units³.

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

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

17

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

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

24 (1) without the incentive award, the redevelopment project is
25 not economically feasible;

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

29 (3) the redevelopment project, except a film studio, professional
30 stage, television studio, recording studio, screening room, or other
31 infrastructure used for film production, ³or a special mission non-
32 profit project,³ is located in the incentive area;

33 (4) ³[¹(a)¹]³ except for demolition and site remediation
34 activities, the developer has not commenced any construction at the
35 site of the redevelopment project prior to submitting an application,
36 unless the authority determines that the redevelopment project
37 would not be completed otherwise or, in the event the
38 redevelopment project is to be undertaken in phases, the requested
39 incentive award is limited to only phases for which construction has
40 not yet commenced;

41 ³[¹(b) if the developer has commenced demolition and site
42 remediation activities at the site of the redevelopment project prior
43 to submitting an application²that includes those demolition and site
44 remediation costs as part of the eligible project cost², all
45 construction workers employed to undertake demolition and site
46 remediation activities at the site were paid not less than the

1 prevailing wage rate for the worker's craft or trade, as determined
2 by the Commissioner of Labor and Workforce Development
3 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
4 c.379 (C.34:11-56.58 et seq.);¹】³

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

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

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

16 (b) during the eligibility period, each worker employed to
17 perform building services work at the redevelopment project,
18 whether pursuant to contract by the developer or a commercial
19 tenant, commercial subtenant, or other commercial occupant, shall
20 be paid not less than the prevailing wage rate for the worker's craft
21 or trade, as determined by the Commissioner of Labor and
22 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
23 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except
24 that this requirement shall not apply to workers employed to
25 perform building services work by **【a】³【any residential tenant or**
26 **any】 a³ commercial tenant, commercial subtenant, or other
27 commercial occupant that has a leasehold interest or other
28 occupancy right in a redevelopment project, which leasehold
29 interest or other occupancy right encompasses less than 5,000
30 square feet of space within the project. The developer shall include
31 in all commercial leases or other commercial occupancy
32 agreements, and shall require that all subleases or other commercial
33 occupancy agreements applicable to the redevelopment project
34 include, a provision setting forth the requirements of this
35 subparagraph, which provision shall be in a form acceptable to the
36 authority. Notwithstanding any provisions of law to the contrary, if
37 a commercial tenant, commercial subtenant, or other commercial
38 occupant violates this provision due to the underpayment of the
39 required prevailing wage rate, then the issuance of tax credits to the
40 developer and any co-applicant shall be delayed until such time as
41 documentation demonstrating compliance has been provided to the
42 Commissioner of Labor and Workforce Development, subsequently
43 reviewed and approved by the Commissioner of Labor and
44 Workforce Development, and verified by the authority, which
45 reviews and verification shall be completed. If a violation is not
46 cured, or is not capable of being cured, within one year of receipt of
47 notice of the violation, then the developer and any co-applicant**

1 shall forfeit 50 percent of the tax credits otherwise authorized for
2 the tax period in which the notice of violation was issued. If the
3 violation is not cured on or before the conclusion of that tax period,
4 the developer and any co-applicant shall forfeit up to 100 percent of
5 the tax credits otherwise authorized, as determined by the authority,
6 in each subsequent tax period until the first tax period for which
7 documentation demonstrating compliance has been provided to the
8 Commissioner of Labor and Workforce Development, subsequently
9 reviewed and approved by the Commissioner of Labor and
10 Workforce Development, and verified by the authority, which
11 reviews and verifications shall be completed. In this event, the
12 developer and any co-applicant shall be allowed the full tax credit
13 amount beginning in the tax period in which documentation of
14 compliance was reviewed and approved by the Commissioner of
15 Labor and Workforce Development and verified by the authority,
16 including each subsequent tax period in which the tax credits are
17 otherwise authorized ³. The requirement of this subparagraph shall
18 not apply to the residential tenants or residential subtenants of a
19 redevelopment project³;

20 (c) in the event a redevelopment project, or any portion thereof,
21 is undertaken by a tenant pursuant to a contract and the tenant has a
22 leasehold of more than 55 percent of space in the building owned or
23 controlled by the developer, the requirement that each worker
24 employed to perform building service work at the building be paid
25 not less than the prevailing wage shall apply to the entire building,
26 except as otherwise provided in subparagraph (b) of this paragraph
27 for ³[all residential tenants and all]³ commercial tenants,
28 commercial subtenants, or other commercial occupants with a
29 leasehold interest or other occupancy right encompassing less than
30 5,000 square feet ³. The requirement of this subparagraph shall not
31 apply to the residential tenants or residential subtenants of a
32 redevelopment project³;

33 (8) (a) the redevelopment project shall be completed, and the
34 developer shall be issued a certificate of occupancy for the
35 redevelopment project facilities by the applicable enforcing agency,
36 within four years of executing the incentive award agreement, or in
37 the case of a redevelopment project with a ³[²total²]³ project cost
38 in excess of \$50,000,000, the incentive phase agreement
39 corresponding to the redevelopment project; or

40 (b) in the discretion of the authority, a redevelopment project
41 with a ³[²total²]³ project cost in excess of \$50,000,000, and that is
42 authorized to be completed in phases, may be allowed no more than
43 six years from the date on which the incentive award agreement is
44 executed to be issued a certificate of occupancy by the applicable
45 enforcement agency;

- 1 (9) the developer has complied with all requirements for filing
2 tax and information returns and for paying or remitting required
3 State taxes and fees by submitting, as a part of the application, a tax
4 clearance certificate, as described in section 1 of P.L.2007, c.101
5 (C.54:50-39); and
- 6 (10) the developer is not more than 24 months in arrears at the
7 time of application.
- 8 b. In addition to the requirements set forth in subsection a. of
9 this section, for a commercial project to qualify for an incentive
10 award the developer shall demonstrate that the developer shall
11 contribute capital of at least 20 percent of the ²[total]² ³total³
12 project cost, except that if a redevelopment project is located in a
13 government-restricted municipality, the developer shall contribute
14 capital of at least 10 percent of the ²[total]² ³total³ project cost.
- 15 c. In addition to the requirements set forth in subsection a. of
16 this section, for a residential project or a commercial project
17 comprised solely of a health care or health service center to qualify
18 for an incentive award, the residential project or health care or
19 health service center shall:
- 20 (1) have a total project cost of at least \$17,500,000, if the project
21 is located in a municipality with a population greater than 200,000
22 according to the latest federal decennial census;
- 23 (2) have a total project cost of at least \$10,000,000 if the project
24 is located in a municipality with a population less than 200,000
25 according to the latest federal decennial census; or
- 26 (3) have a total project cost of at least \$5,000,000 if the project is
27 in a qualified incentive tract or government-restricted municipality.
- 28 d. In addition to the requirements set forth in subsections a. and
29 c. of this section, for a residential project consisting of newly-
30 constructed residential units to qualify for an incentive award, the
31 developer shall reserve at least 20 percent of the residential units
32 constructed for occupancy by low- and moderate-income
33 households with affordability controls as adopted by the authority,
34 in consultation with the agency, in accordance with paragraph (2) of
35 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324),
36 except that a residential project receiving a federal historic
37 rehabilitation tax credit pursuant to section 47 of the federal
38 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
39 pursuant to the "Historic Property Reinvestment Act," sections 2
40 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
41 shall be exempt from the affordability controls related to bedroom
42 distribution.
- 43 e. Prior to the board considering an application submitted by a
44 developer, the authority shall confirm with the Department of Labor
45 and Workforce Development, the Department of Environmental
46 Protection, and the Department of the Treasury whether the
47 developer is in substantial good standing with the respective

1 department, or has entered into an agreement with the respective
2 department that includes a practical corrective action plan for the
3 developer. The developer shall certify that any contractors or
4 subcontractors that will perform work at the redevelopment project:
5 (1) are registered as required by "The Public Works Contractor
6 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
7 not been debarred by the Department of Labor and Workforce
8 Development from engaging in or bidding on Public Works
9 Contracts in the State; and (3) possess a tax clearance certificate
10 issued by the Division of Taxation in the Department of the
11 Treasury. The authority may also contract with an independent
12 third party to perform a background check on the developer.

13 f. Beginning ²[on] ³[after²] on³ the ³[third] fourth³ year
14 ³[following the date of issuance of a final certificate of occupancy]
15 of the eligibility period³ for a commercial project, and through the
16 conclusion of the eligibility period, if the average occupancy rate of
17 the commercial project is less than 60 percent during any applicable
18 tax period, the developer and co-applicant shall forfeit all credits
19 otherwise allowed for the tax period and for each subsequent tax
20 period until the authority verifies documentation, submitted by the
21 developer or co-applicant, demonstrating that the average
22 occupancy rate has reached or surpassed 60 percent for the tax
23 period. The full amount of credit shall be allowed to a developer
24 and any co-applicant for the tax period in which the average
25 occupancy rate reaches or surpasses 60 percent. Occupancy for the
26 tax period shall be determined by the average of the monthly
27 occupancy for the applicable tax period. The occupancy
28 requirement in this subsection shall not apply to residential projects.
29 (cf: P.L.2023, c.98, s.3)

30

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

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

39 (2) For a phased project, the incentive phase agreement shall set
40 forth, for each phase of the project and for the total project, the
41 capital investment requirements and the time periods in which each
42 phase of the project shall be commenced and completed. The
43 awarding of tax credits shall be conditioned on the developer's
44 compliance with the requirements of the agreement. A
45 redevelopment project may be completed in phases in accordance
46 with rules adopted by the authority if the redevelopment project has
47 ³[a total] an eligible³ project cost in excess of \$50,000,000.

1 b. An incentive award agreement shall specify the amount of
2 the incentive award the authority shall award to the developer and
3 the duration of the eligibility period. The duration of the eligibility
4 period ~~shall not exceed 15 years for a commercial or mixed-use~~
5 ~~project and~~ shall not exceed 10 years for a commercial project,
6 mixed-use project, or residential project, except that ~~to~~ ³~~the~~
7 ~~authority shall~~³ ²~~consider reducing~~ ³~~reduce~~² the eligibility
8 period if a shorter period would ~~to~~³ reduce the total value of tax
9 credits needed to reimburse a developer for all or part of the project
10 financing gap of a redevelopment project, ~~the authority may, in its~~
11 ~~discretion, approve a duration for the eligibility period that is~~
12 ~~shorter than the applicable maximum periods~~ ³~~enhance access to~~
13 ~~tax credit monetization on cost effective terms, or otherwise~~
14 ~~enhance the effectiveness of the program~~ the authority may, in its
15 discretion, approve a duration for the eligibility period that is
16 shorter than the applicable maximum periods³. The incentive award
17 agreement shall provide an estimated date of completion and
18 include a requirement for periodic progress reports, including the
19 submittal of executed financing commitments and documents that
20 evidence site control; provided however, that the developer may sell
21 one or more buildings during the eligibility period, ³~~provided that~~
22 such sale is: an arms-length transaction to an unrelated party, or for
23 an amount at least equal to fair market value based on an appraisal
24 conducted within one year; and subject to the purchaser's
25 assumption of all obligations relating to the buildings pursuant to
26 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
27 C.34:1B-335) ~~subject to such rules and regulations as may be~~
28 adopted by the authority.³ If the authority does not receive periodic
29 progress reports, or if the progress reports demonstrate
30 unsatisfactory progress, then the authority may rescind the incentive
31 award. If the authority rescinds an incentive award in the same
32 calendar year in which the authority approved the incentive award,
33 then the authority may assign the incentive award to another
34 applicant. The incentive award agreement may also provide for a
35 verification of the financing gap at the time the developer provides
36 executed financing commitments to the authority and a verification
37 of the developer's projected cash flow at the time of certification
38 that the project is completed ³, provided that the authority shall not
39 resize or reduce the tax credit based on the executed financing
40 commitments or the updated projected cash flow but that the
41 authority shall use the commitments and cash flow to calculate the
42 return on investment required pursuant to subsection c. of this
43 section.³

44 c. To ensure the protection of taxpayer money, ³~~if the~~
45 authority determines at project certification that the actual capital
46 financing approach utilized by the project has resulted in a

1 financing gap that is smaller than the financing gap determined at
2 board approval, the authority shall reduce the amount of the tax
3 credit or accept payment from the developer on a pro rata basis. If
4 there is no project financing gap due to the actual capital financing
5 approach utilized by the project, then the developer shall forfeit the
6 incentive award. At at project certification and at³ the end of the
7 seventh year of the eligibility period, the authority shall evaluate the
8 developer's rate of return on investment and compare that rate of
9 return on investment to the reasonable and appropriate rate of return
10 at the time of board approval. If the actual rate of return on
11 investment exceeds the reasonable and appropriate rate of return on
12 investment at the time of board approval by more than 15 percent,
13 the authority shall require the developer to pay up to 20 percent of
14 the amount in excess of the reasonable and appropriate rate of
15 return on investment. ³For any year during the eligibility period in
16 which the director purchases a tax credit certificate or tax credit
17 transfer certificate issued for a redevelopment project pursuant to
18 section 89 of P.L.2020, c.156 (C.52:18A-263), if the actual rate of
19 return on investment exceeds the reasonable and appropriate rate of
20 return on investment at the time of board approval by more than 10
21 percent, the authority shall require the developer to pay up to 20
22 percent of the amount in excess of the reasonable and appropriate
23 rate of return on investment, except as otherwise provided in
24 paragraph (2) of subsection a. of section 89 of P.L.2020, c.156
25 (C.52:18A-263).³ The authority shall require an escrow account to
26 be held by the authority ³for any payment received pursuant to this
27 subsection³ until the end of the eligibility period. ³For any payment
28 amount calculated at project certification, the developer shall make
29 equal annual payments, which in aggregate shall equal the
30 calculated payment amount, with each annual report for the first
31 seven years of the eligibility period. At the end of the seventh year
32 of the eligibility period, the developer shall pay the authority any
33 additional amount required. For projects that have an eligibility
34 period of fewer than 10 years, the authority may adjust the year of
35 the eligibility period in which the evaluation of the rate of return
36 and contribution to the escrow account, as may be appropriate, are
37 required. The authority shall not reduce or recapture any tax credits
38 at project certification or at the end of the seventh year of the
39 eligibility period solely due to an increase to the return on
40 investment.³ Following the final year of the eligibility period, the
41 authority shall determine if the developer's rate of return exceeded
42 the reasonable and appropriate rate of return determined at board
43 approval. If the final rate of return does not exceed the reasonable
44 and appropriate rate of return determined at board approval, the
45 authority shall release to the developer the escrowed funds. If the
46 project final rate of return exceeds the reasonable and appropriate
47 rate of return determined at board approval, the authority shall

1 require the developer to pay up to 20 percent of the amount of the
2 excess, which shall include the funds held in escrow, and such
3 funds shall be deposited in the State General Fund.

4 d. The incentive award agreement shall include a requirement
5 that the authority confirm with the Department of Environmental
6 Protection, the Department of Labor and Workforce Development,
7 and the Department of the Treasury that the developer is in
8 substantial good standing with the respective department, or the
9 developer has entered into an agreement with the respective
10 department that includes a practical corrective action for the
11 developer, and the developer shall confirm that each contractor or
12 subcontractor performing work at the redevelopment project: (1) is
13 registered as required by "The Public Works Contractor
14 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
15 not been debarred ¹, suspended, or disqualified¹ by the Department
16 of Labor and Workforce Development from engaging in or bidding
17 on Public Works Contracts in the State ¹, or been debarred,
18 suspended, or disqualified by a federal agency from engaging in
19 federally-funded construction projects or bidding on federal
20 contracting opportunities¹; and (3) possesses a tax clearance
21 certificate issued by the Division of Taxation in the Department of
22 the Treasury. The incentive award agreement shall also include a
23 provision that the developer shall forfeit the incentive award in any
24 year in which the developer is neither in substantial good standing
25 with each department nor has entered into a practical corrective
26 action. The incentive award agreement shall also require a
27 developer to engage in on-site consultations with the Division of
28 Workplace Safety and Health in the Department of Health.

29 e. (1) Except as provided in paragraph (2) of this subsection,
30 the authority shall not enter into an incentive award agreement for a
31 redevelopment project that includes at least one retail establishment
32 which will have more than 10 employees, at least one distribution
33 center which will have more than 20 employees, or at least one
34 hospitality establishment which will have more than 10 employees,
35 unless the incentive award agreement includes a precondition that
36 any business that serves as the owner or operator of the retail
37 establishment, distribution center, or hospitality establishment
38 enters into a labor harmony agreement with a labor organization or
39 cooperating labor organizations which represent retail
40 establishment, hospitality establishment, or distribution center
41 employees in the State.

42 (2) A labor harmony agreement shall be required only if the
43 State has a proprietary interest in the redevelopment project and
44 shall remain in effect for as long as the State acts as a market
45 participant in the redevelopment project. The authority may enter
46 into an incentive award agreement with a developer without the
47 labor harmony agreement required under paragraph (1) of this

1 subsection if the authority determines that the redevelopment
2 project would not be able to go forward if a labor harmony
3 agreement is required. The authority shall support the
4 determination by a written finding, which provides the specific
5 basis for the determination.

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

7 f. (1) Except for ³a special mission non-profit project in any
8 location, or³ a residential project that is located in a government-
9 restricted municipality³~~],~~³ and in which 100 percent of the
10 residential units constructed in the residential project are reserved
11 for occupancy by low- and moderate-income households, for a
12 redevelopment project whose ²~~[total]~~² ³~~total~~³ project cost equals or
13 exceeds \$10 million, in addition to the incentive award agreement, a
14 developer shall enter into a community benefits agreement with the
15 authority and the county or municipality in which the
16 redevelopment project is located. The agreement may include, but
17 shall not be limited to, requirements for training, employment, and
18 youth development and free services to underserved communities in
19 and around the community in which the redevelopment project is
20 located. Prior to entering a community benefits agreement, ³~~[the~~
21 ~~governing body of]~~³ the county or municipality in which the
22 redevelopment project is located shall hold at least one ³previously
23 advertised³ public hearing at which ³~~[the governing body shall~~
24 ~~hear]~~³ testimony from residents, community groups, and other
25 stakeholders ³shall have an opportunity to be heard³ on the needs of
26 the community that the agreement should address³, and the minutes
27 of the meeting shall be included in the resolution of the governing
28 body of the municipality or county adopting the community benefits
29 agreement³.

30 (2) The community benefits agreement shall provide for the
31 creation of a community advisory committee to oversee the
32 implementation of the agreement, monitor successes, ensure
33 compliance with the terms of the agreement, and produce an annual
34 public report. The community advisory committee created pursuant
35 to this paragraph shall be comprised of representatives of diverse
36 community groups and residents of the county or municipality in
37 which the redevelopment project is located.

38 (3) At the time the developer submits the annual report required
39 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
40 authority, the developer shall certify, under the penalty of perjury,
41 that it is in compliance with the terms of the community benefits
42 agreement. If the developer fails to provide the certification
43 required pursuant to this paragraph or the authority determines that
44 the developer is not in compliance with the terms of the community
45 benefits agreement based on the reports submitted by the
46 community advisory committee pursuant to paragraph (2) of this

1 subsection, then the authority may rescind an award or recapture all
2 or part of any tax credits awarded.

3 (4) Notwithstanding any requirement of this subsection to the
4 contrary, ³~~because all redevelopment agreements require a~~
5 certificate of completion issued by the municipality to confirm the
6 developer's compliance with the redevelopment agreement,²³ a
7 developer shall be considered to have met the requirements of a
8 community benefits agreement ~~【pursuant to this subsection】~~ ³~~,~~
9 and the requirements of paragraphs (2) and (3) of this subsection
10 shall not apply,】 pursuant to this subsection³ if the developer
11 submits to the authority:

12 (a) a copy of either the developer's approval letter from the
13 authority or a redevelopment agreement applicable to the qualified
14 business facility, provided that the approval letter ³~~is certified by~~
15 the municipality】³ or ³~~the】~~³ redevelopment agreement is
16 ~~【certified】~~ ³【adopted by resolution at a public meeting】 certified³
17 by the municipality in which the redevelopment project is located,
18 and includes provisions that meet ~~【or exceed】~~ ³or exceed³ the
19 ~~【standards】~~ ³【community benefit】 standards³ required ~~【for】~~
20 ³【under】 for³ a community benefits agreement ²~~【in】~~ ³【pursuant
21 to²】 in³ this subsection ~~【,~~ as determined by the chief executive
22 officer pursuant to rules adopted by the authority ³~~], as determined~~
23 by the chief executive officer pursuant to rules adopted by the
24 authority³; or

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

36 ³(c) The developer and the municipality or county shall submit
37 the executed community benefits agreement, redevelopment
38 agreement, or approved resolution to the authority within the same
39 time as all other conditions subsequent required in the approval
40 letter.³

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

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

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

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

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

21

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

24 61. a. Up to the limits established in subsection b. of this section
 25 and in accordance with an incentive award agreement, beginning
 26 upon the receipt of occupancy permits for any portion of the
 27 redevelopment project, or upon any other event evidencing project
 28 completion as set forth in the incentive award agreement, a
 29 developer shall be allowed a total tax credit **[that shall not exceed]**
 30 **³[as follows, subject to the enhancements set forth in subsection c.**
 31 **of this section] that shall not exceed³:**

32 (1) **³[80] (a) 85³ percent of the ²[total] eligible² project cost for**
 33 **a redevelopment project that ^{3,3} is located in a government-**
 34 **restricted municipality ³, which municipality qualified as a**
 35 **government-restricted municipality prior to the effective date of**
 36 **P.L. , c. (C.) (pending before the Legislature as this bill);³**
 37 **²or is a special mission non-profit project²; ³or**

38 **(b) 80 percent of the eligible project cost for a redevelopment**
 39 **project that is located in a government-restricted municipality,**
 40 **which municipality did not qualify as a government-restricted**
 41 **municipality prior to the effective date of P.L. , c. (C.)**
 42 **(pending before the Legislature as this bill);³**

43 (2) 60 percent of the ²[total] eligible² project cost for a
 44 residential project that receives a four-percent allocation from the
 45 federal Low Income Housing Tax Credit Program administered by
 46 the agency ^{1,1} or a redevelopment project that is located in a

- 1 qualified incentive tract, enhanced area, or a municipality with a
2 Municipal Revitalization Index score of at least 50; or
- 3 (3) 50 percent of the ²~~total~~ eligible² project cost for any other
4 redevelopment project.
- 5 b. The value of all tax credits approved by the authority under
6 the program for a redevelopment project phase shall not exceed:
- 7 (1) \$120,000,000 per redevelopment project or phase for a
8 redevelopment project that is located in a government-restricted
9 municipality ²or is a special mission non-profit project²;
- 10 (2) \$90,000,000 per redevelopment project or phase for a
11 redevelopment project that is allowed a tax credit under paragraph
12 (2) of subsection a. of this section; and
- 13 (3) \$60,000,000 for any other redevelopment project or phase.
- 14 ³c. Notwithstanding the limitations set forth in subsection a. of
15 this section, but subject to the limitations of subsections b. and d. of
16 this section and the demonstration of a financing gap, a developer
17 shall be eligible for each of the following enhancements to the total
18 tax credit award:
- 19 (1) for a redevelopment project that includes the redevelopment
20 of a stranded asset, an enhancement of up to 10 percent of the
21 project cost of the redevelopment project;
- 22 (2) for a residential project that meets the three-bedroom
23 distribution requirement under the Uniform Housing Affordability
24 Controls, an enhancement of up to five percent of the project cost of
25 the residential project; and
- 26 (3) for a redevelopment project that meets local first source
27 hiring requirements for residents in the municipality or county
28 ¹[where] in which¹ the project is located ¹and in surrounding
29 municipalities, as appropriate¹ , an enhancement of up to three
30 percent of the project cost of the redevelopment project.
- 31 d. Except for a redevelopment project that is located in a
32 government restricted municipality:
- 33 (1) the total tax credits awarded for the redevelopment project,
34 together with all tax credits awarded under any other program
35 administered by the authority, shall not exceed 80 percent of the
36 project cost of the redevelopment project; and
- 37 (2) for a redevelopment project that receives tax credits under
38 the Federal Low-Income Housing Tax Credit Program, the total tax
39 credits awarded for the redevelopment project, together with all tax
40 credits awarded under any other program administered by the
41 authority and under the Federal Low-Income Housing Tax Credit
42 Program, shall not exceed 90 percent of the project cost.】³
- 43 (cf: P.L.2023, c.98, s.7)
- 44
- 45 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
46 read as follows:

1 62. a. A developer approved for an incentive award pursuant to
2 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-
3 327) and that enters an incentive award agreement pursuant to
4 section 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually,
5 commencing in the year in which the incentive award is issued and
6 for the remainder of the eligibility period, a report indicating
7 whether the developer is aware of any condition, event, or act that
8 would cause the developer not to be in compliance with the
9 incentive award agreement or the provisions of sections 54 through
10 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any
11 additional reporting requirements contained in the incentive award
12 agreement or tax credit certificate. The developer, or an authorized
13 agent of the developer, shall certify that the information provided
14 pursuant to this subsection is true under the penalty of perjury.

15 b. (1) Upon receipt and review of each report submitted during
16 the eligibility period, the authority shall provide to the developer
17 and the director a certificate of compliance indicating the amount of
18 tax credits that the developer may apply against the developer's tax
19 liability. ³~~2~~The authority shall preliminarily determine whether
20 the annual report submitted by the developer is complete as early as
21 practicable after accepting each annual report. Within 90
22 Notwithstanding any provision of law or regulation to the contrary,
23 the authority shall not require the developer to include a permanent
24 certificate of occupancy in the first annual report, but the developer
25 shall include the permanent certificate of occupancy in the next
26 annual report after the developer receives the permanent certificate
27 of occupancy. Subject to forfeiture, reduction, or other action for
28 failure to comply with a program requirement, within 120³ days
29 after the authority preliminarily determines that an annual report is
30 complete, the authority shall either: (a) approve the annual report
31 and notify the director that the authority has approved the report
32 and that the director is to issue the tax credit certificate; or (b)
33 request more information from the developer to finalize the
34 approval. If the authority fails to act within ³~~90~~ 120³ days from
35 its preliminary determination that the annual report is complete, the
36 annual report shall be deemed approved by the authority, and the
37 developer shall be entitled to receive its tax credit certificate.²

38 (2) Upon receipt by the director of the certificate of compliance,
39 the director shall allow the developer a credit against the tax
40 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
41 developer shall apply the credit awarded against the developer's
42 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
43 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
44 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 ²~~1~~for the
45 privilege period [during] identified in the tax credit certificate
46 which the director [allows] issues to the developer [a tax credit]

1 pursuant to this subsection, or within the three successive tax
 2 periods immediately following the tax period in which the tax credit
 3 certificate is received by the developer **1** in the tax period for which
 4 it was issued, in the tax period in which it was issued, or in any
 5 ³[successive]³ tax period ³1, as authorized pursuant to this
 6 subsection **2** during the eligibility period³, without the need to
 7 amend the tax return for the tax period for which the credit was
 8 issued, subject to the carry-forward provision in this section.
 9 Notwithstanding the foregoing, no more than the amount of tax
 10 credits equal to the total credit amount divided by the duration of
 11 the tax credit term, in years, may be taken in any tax period². A
 12 developer may carry forward an unused credit resulting from the
 13 limitations of paragraph (3) of this subsection, if necessary, for use
 14 in the seven privilege periods next following the privilege period
 15 for which the credits are **1** awarded **2** applied. Credits granted to a
 16 partnership shall be passed through to the partners, members, or
 17 owners, respectively, pro-rata, or pursuant to an executed agreement
 18 among the partners, members, or owners documenting an alternate
 19 distribution method provided to the director accompanied by any
 20 additional information as the director may prescribe.

21 (3) The director shall prescribe the order of priority of the
 22 application of the credit allowed under this section and any other
 23 credits allowed by law against the tax imposed under section 5 of
 24 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
 25 under this section against the tax imposed pursuant to section 5 of
 26 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
 27 any other credits allowed by law, shall not reduce the tax liability to
 28 an amount less than the statutory minimum provided in subsection
 29 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
 30 (cf: P.L.2022, c.46, s.1)

31
 32 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
 33 read as follows:

34 63. a. ²(1)² A developer may apply to the director and the chief
 35 executive officer of the authority for a tax credit transfer certificate,
 36 covering one or more years, in lieu of the developer being allowed
 37 any amount of the credit against the tax liability of the developer.
 38 ³²The authority shall preliminarily determine whether the
 39 application submitted by the developer is complete as early as
 40 practicable after accepting the application. Within 90 **1** Subject to
 41 the forfeiture, reduction, or other action for failure to comply with a
 42 program requirement, within 120³ days after the authority
 43 preliminarily determines that an application is complete, the
 44 authority shall either: (a) approve the application and notify the
 45 director that the authority has approved the application and that the
 46 director is to issue the tax credit transfer certificate; or (b) request

1 more information from the developer to finalize the approval. If the
2 authority fails to act within ³[90] 120³ days from its preliminary
3 determination that the application is complete, the application shall
4 be deemed approved by the authority, and the developer shall be
5 entitled to receive its tax credit transfer certificate.

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

19 b. The developer shall not sell or assign, including a collateral
20 assignment, a tax credit transfer certificate allowed under this
21 section for consideration received by the developer of less than 85
22 percent of the transferred credit amount before considering any
23 further discounting to present value which shall be permitted,
24 except a developer of a residential project consisting of newly-
25 constructed residential units may assign a tax credit transfer
26 certificate for consideration of less than 85 percent subject to the
27 submission of a plan to the authority and the agency to use the
28 proceeds derived from the assignment of tax credits to complete the
29 residential project, except a developer of a residential project
30 consisting of newly-constructed residential units that has received
31 federal low income housing tax credits under 26 U.S.C.
32 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
33 consideration of no less than 65 percent subject to the submission of
34 a plan to the authority and the New Jersey Housing and Mortgage
35 Finance Agency to use the proceeds derived from the assignment of
36 tax credits to complete the residential project. The tax credit
37 transfer certificate issued to a developer by the director shall be
38 subject to any limitations and conditions imposed on the application
39 of State tax credits pursuant to sections 54 through 67 of P.L.2020,
40 c.156 (C.34:1B-322 through 34:1B-335) and any other terms and
41 conditions that the director may prescribe; provided, however, that
42 the holder of a tax credit certificate may transfer all or part of the
43 tax credit amount, ²[within the three successive tax periods
44 immediately following the tax period in which the tax credit
45 certificate is received by the developer] ³[at any time after the date
46 of receipt of the tax credit certificate²,]³ on or after the date of
47 issuance of the tax credit transfer certificate, for use by the

1 transferee in the tax period for which it was issued ²or within the
 2 three successive tax periods immediately following the tax period in
 3 which the tax credit transfer certificate is received by the transferee,
 4 and the transferee may carry forward all or part of the tax credit
 5 amount in any of the next five successive tax periods after the tax
 6 period for which it was used] , in the tax period in which it was
 7 issued, or in any ³of the next three³ successive tax ³[period]
 8 periods. The tax certificate holder or transferee may first use the
 9 credit against tax liabilities in the tax period in which it was issued
 10 or in a succeeding tax period³, as authorized in this subsection,
 11 without the need to amend the tax return for the tax period for
 12 which the credit was issued, subject to the ³[carry-forward
 13 provision in] provisions of³ this section. A transferee may carry
 14 forward an unused credit for use in any of the next five successive
 15 tax periods, and the unused credit shall expire thereafter².
 16 Notwithstanding any provision of this section to the contrary, the
 17 amount of tax credits that may be claimed by the transferee in any
 18 tax period shall not exceed the total tax credit amount divided by
 19 the duration of the eligibility period in years.

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

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

- 26 (1) the name of the transferor;
- 27 (2) the name of the transferee;
- 28 (3) the value of the tax credit transfer certificate; and
- 29 (4) the consideration received by the transferor.

30 ²e When a tax credit certificate is issued to a developer after
 31 the tax period in which all or part of the tax credits may be used by
 32 the developer or a holder of the credit transfer certificate, the
 33 developer or transferee shall be allowed to use the tax credit for the
 34 same tax period specified in the tax credit certificate, or within the
 35 three successive tax periods immediately following the tax period in
 36 which the certificate is received by the developer or transferee. In
 37 this circumstance, the developer or transferee shall not be required
 38 to amend its tax return for the tax period in which it applies the tax
 39 credit or for a tax period preceding the tax period in which the tax
 40 credit is applied.]²

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

42
 43 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
 44 read as follows:

45 65. a. As used in this section, "transformative project" means a
 46 redevelopment project: that has a project financing gap; that has a

1 total project cost of at least \$150,000,000; that ²[, subject to the
 2 provisions of subsection h. of this section,]² includes 200,000 or
 3 more square feet of new or substantially renovated industrial,
 4 commercial, or residential space for a project located in a
 5 government-restricted municipality, that includes 250,000 or more
 6 square feet of film studios, professional stages, television studios,
 7 recording studios, screening rooms, or other infrastructure for film
 8 production, that includes 300,000 or more square feet of new or
 9 substantially renovated industrial, commercial, or residential space
 10 for a project located in an enhanced area, or that includes 500,000
 11 or more square feet of new or substantially renovated industrial,
 12 commercial, or residential space for any other project; and, for a
 13 commercial project, that is of special economic importance as
 14 measured by the level of new jobs, new capital investment,
 15 opportunities to leverage leadership in a high-priority targeted
 16 industry, or other state priorities as determined by the authority
 17 pursuant to rules and regulations promulgated to implement this
 18 section. Notwithstanding the provisions of subsection b. of section
 19 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for
 20 applications submitted on and after the effective date of P.L.2023,
 21 c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located
 22 entirely on land designated by the Department of Environmental
 23 Protection as a brownfield development area pursuant to section 7
 24 of P.L.2005, c.223 (C.58:10B-25.1), and the ³["²total²"] eligible³
 25 project cost of the redevelopment project includes at least
 26 \$15,000,000 in environmental remediation costs, the redevelopment
 27 project shall constitute a project of special economic importance. A
 28 transformative project may be completed in phases, which phases
 29 may be determined by the authority based on factors such as written
 30 architectural plans and specifications completed before or during
 31 the physical work, certificates of occupancy, or financial and
 32 operational plans. The criteria developed by the authority shall
 33 include, but shall not be limited to:

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

37 (2) (a) for a residential project, the construction of 700 or more
 38 new residential units; ³["¹or¹"]³

39 (b) for a ³mixed-use³ residential project containing ["less"] fewer
 40 than 700 new residential units ³[""] :

41 (i)³ the construction of 200 or more new residential units if the
 42 project is located in a government-restricted municipality, 300 or
 43 more ²new² residential units if the project is located in an enhanced
 44 area, or 400 or more ²new² residential units for all other mixed-use
 45 projects; ³["¹or¹"] and

1 (ii) the construction of 30,000 square feet or more of
2 commercial space, which commercial space may include retail
3 space; and³

4 (c) ³for a residential project ²containing , not located in a
5 government-restricted municipality or an enhanced area, that
6 contains² less fewer than 700 new residential units, the
7 construction of ~~50,000~~ 20,000 square feet or more of commercial
8 space, which commercial space may include retail space; and
9 (Deleted by amendment, P.L. , c. (pending before the
10 Legislature as this bill)³

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

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

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

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

35 (2) (a) For transformative projects completed in phases, the
36 developer shall enter into a transformative phase agreement with the
37 authority.

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

42 (3) Notwithstanding the provisions of section 57 of P.L.2020,
43 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
44 (C.34:1B-269 et al.) to the contrary, a transformative project shall
45 be completed, and the developer shall be issued a certificate of
46 occupancy for the transformative project facilities by the applicable
47 enforcing agency, within five years of executing the incentive

1 award agreement, except that the authority may, in its discretion,
2 extend this deadline by up to one additional year. For
3 transformative projects completed in phases, the transformative
4 project shall be completed, and the developer shall be issued
5 certificates of occupancy for all phases of the transformative project
6 facilities by the applicable enforcing agency, within 10 years of
7 executing either the incentive award agreement or the first
8 transformative phase agreement corresponding to the transformative
9 project.

10 (4) Notwithstanding the provisions of sections 55 and 60 of
11 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
12 section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each
13 phase of a transformative project completed in phases shall have a
14 separate eligibility period. After completing each phase, the
15 developer shall submit a certification that the phase is completed.
16 If the authority approves the certification, the tax credit allowed to
17 the developer shall be increased by the tax credit amount
18 corresponding to that phase. Notwithstanding the different
19 eligibility periods for each phase, all conditions and requirements
20 applicable during an eligibility period pursuant to sections 55
21 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335)
22 shall apply to ²[the entire] ³[each phase of a²] the entire³
23 transformative project until the end of the eligibility period ²[for
24 the last] ³[of each completed²] for the last³ phase.

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

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

- 1 for the transformative project from the governing body of the
2 municipality in which the transformative project is located.
- 3 c. The authority shall review the transformative project cost,
4 evaluate and validate the project financing gap estimated by the
5 developer, and conduct a State fiscal impact analysis to ensure that
6 the overall public assistance provided to the transformative project
7 will result in a net positive benefit to the State. In determining
8 whether a transformative project will result in a net positive benefit
9 to the State, the authority shall not consider the value of any taxes
10 exempted, abated, rebated, or retained under the "Five-Year
11 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
12 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
13 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
14 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
15 effect of lowering or eliminating the developer's State or local tax
16 liability. The determination made pursuant to this subsection shall
17 be based on the potential tax liability of the developer without
18 regard for potential tax losses if the developer were to locate in
19 another state. The authority shall assess the cost of these reviews to
20 the applicant. A developer shall pay to the authority the full
21 amount of the direct costs of an analysis concerning the developer's
22 application for an incentive award that a third party retained by the
23 authority performs, if the authority deems such retention to be
24 necessary. The authority shall evaluate the net economic benefits
25 on a present value basis under which the requested tax credit
26 allocation amount is discounted to present value at the same
27 discount rate as the projected benefits from the implementation of
28 the proposed transformative project for which an award of tax
29 credits is being sought. Projects that are predominantly residential
30 ³or that qualify as special mission non-profit projects³ shall be
31 excluded from the calculation of the net benefit test required
32 pursuant to this subsection.
- 33 d. In determining net benefits for any business or person
34 considering locating in a transformative project and applying to
35 receive from the authority any other economic development
36 incentive subsequent to the award of transformative project tax
37 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
38 authority shall not credit the business or person with any benefit
39 that was previously credited to the transformative project pursuant
40 to section 65 of P.L.2020, c.156 (C.34:1B-333).
- 41 e. The authority shall administer the credits awarded pursuant
42 to this section in accordance with the provisions of sections 62 and
43 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).
- 44 f. Prior to allocating an incentive award to a developer, the
45 authority shall confirm with the Department of Labor and
46 Workforce Development, the Department of Environmental
47 Protection, and the Department of the Treasury that the developer is

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

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

19 (1) (a) ³**[80]** (i) 85³ percent of the ²**[total]** eligible² project cost
 20 for a transformative project that is located in a government-
 21 restricted municipality ³, which municipality qualified as a
 22 government-restricted municipality prior to the effective date of
 23 P.L. , c. (C.) (pending before the Legislature as this bill)³ ;
 24 ³or

25 (ii) 80 percent of the eligible project cost for a transformative
 26 project that is located in a government-restricted municipality,
 27 which municipality did not qualify as a government-restricted
 28 municipality prior to the effective date of P.L. , c. (C.)
 29 (pending before the Legislature as this bill);³

30 (b) 60 percent of the ²**[total]** eligible² project cost for a
 31 residential transformative project that receives a four-percent
 32 allocation from the federal Low Income Housing Tax Credit
 33 Program administered by the agency or a transformative project that
 34 is located in a qualified incentive tract, enhanced area, or a
 35 municipality with a Municipal Revitalization Index score of at least
 36 50; or

37 (c) 50 percent of the ²**[total]** eligible² project cost for any other
 38 transformative project;

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

40 (3) \$400,000,000, except that for a transformative project that is
 41 developed in phases, the \$400,000,000 limitation on incentive
 42 awards set forth in this paragraph shall apply to the total aggregate
 43 award for all phases of the transformative project.

44 ³**[h.** ¹Notwithstanding the limitations set forth in subsection g.
 45 of this section, a developer of a transformative project shall be
 46 eligible for each of the following enhancements to the total tax

1 credit award ², individually or in combination, subject to the
 2 demonstration of a financing gap and need for support ² :

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

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

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

15 ²[i. ¹ (1) The parking component of a transformative project
 16 shall be included in the calculation of the total square footage of the
 17 project, provided that the parking component shall be constructed in
 18 conformity with local zoning, planning, or similar requirements
 19 ¹[and] , or ¹ up to the amount required by the Residential Site
 20 Improvement Standards ¹, regardless of whether the Residential Site
 21 Improvement Standards apply to the parking component ¹ . Any
 22 portion of the parking component that exceeds the local parking
 23 requirements or the Residential Site Improvement Standards shall
 24 not be included in the calculation of the total square footage of the
 25 project.

26 (2) Notwithstanding any provision of paragraph (1) of this
 27 subsection to the contrary, the entire parking component of a
 28 project located in a government restricted municipality shall be
 29 included in the calculation of the total square footage of the
 30 project.]²

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

32

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

35 14. a. (1) Except as otherwise provided in subsection b. of this
 36 section, all program applications **[completed after]** submitted to ²or
 37 approved by ²the authority ²**[on or]** ²after ²**[the date six months**
 38 prior to the effective date of **[P.L.2023, c.98 (C.34:1B-335.1 et**
 39 al.)] P.L. , c. (C.) (pending before the Legislature as this
 40 bill)] January 1, 2023² shall be subject to the "New Jersey Aspire
 41 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
 42 322 through 34:1B-335), as amended as supplemented by P.L.2023,
 43 c.98 (C.34:1B-335.1 et al.), and as further amended and
 44 supplemented by P.L. , c. (C.) (pending before the
 45 Legislature as this bill), including the rules and regulations adopted
 46 pursuant to subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-

1 335), except that applications submitted to the authority prior to the
 2 effective date of P.L. , c. (C.) (pending before the
 3 Legislature as this bill) shall be subject to the rules and regulations
 4 concerning application fees that were in effect immediately before
 5 the effective date of P.L. , c. (C.) (pending before the
 6 Legislature as this bill).

7 (2) **【**Except as otherwise provided in subsection b. of this
 8 section, all program applications completed on or before the
 9 effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be
 10 subject to the provisions of the "New Jersey Aspire Program Act,"
 11 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
 12 34:1B-335), as such provisions remained in effect immediately
 13 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
 14 including the rules and regulations adopted pursuant to subsection
 15 a. of section 67 of P.L.2020, c.156 (C.34:1B-335).**】** (Deleted by
 16 amendment, P.L. , c. (pending before the Legislature as this bill)

17 b. Notwithstanding any provision of P.L.2020, c.156
 18 (C.34:1B-269 et al.) to the contrary, if a completed application for a
 19 residential project is submitted to the authority on or before the
 20 121st calendar day next following effective date of P.L.2023, c.98
 21 (C.34:1B-335.1 et al.), the applicant for the residential project has
 22 received all applicable approvals pursuant to the "Municipal Land
 23 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the
 24 121st calendar day next following the effective date of P.L.2023,
 25 c.98 (C.34:1B-335.1 et al.), and the applicant submits written notice
 26 to the authority, before the authority's approval or denial of the
 27 application, electing for the application to be governed under the
 28 provisions of this subsection, then the residential units constructed
 29 for occupancy by low- and moderate-income households within the
 30 residential project shall not be subject to the affordability controls
 31 adopted by the authority, in consultation with the agency, pursuant
 32 to paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
 33 (C.34:1B-324) and subsection b. of section 67 of P.L.2020, c.156
 34 (C.34:1B-335). In this event, the application for the residential
 35 project shall be reviewed, approved, and administered in accordance
 36 with the provisions of the "New Jersey Aspire Program Act,"
 37 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
 38 34:1B-335), as such provisions remained in effect immediately
 39 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
 40 including the rules and regulations adopted pursuant to subsection
 41 a. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
 42 application shall be subject to:

43 (1) the determination of a reasonable and appropriate return on
 44 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-
 45 323), as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.); ²**【and】**²

46 (2) the limitation on tax credit awards set forth in subsection b.
 47 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of

1 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
2 amended by P.L.2023, c.98 (C.34:1B-335.1 et al.) ²; and

3 (3) no proration of the tax credit for any year within the
4 eligibility period².

5 (cf: P.L.2023, c.98, s.14) **】³**

6
7 **】³10.** (New section) The authority shall promulgate a
8 schedule of application and other fees imposed under the program,
9 which fees shall be limited to the coverage of actual direct costs of
10 administering the program, the coverage of reasonable indirect costs
11 of administering the program, and the maintenance of reasonable
12 reserves for administering the program. Any application fee or
13 other fee charged by the authority shall be proportional to the tax
14 credit amount awarded for a redevelopment project under the
15 program. **】³**

16
17 **】³11.** (New section) a. The authority shall establish, as part of the
18 program, a “Redevelopment Project Bridge Financing Program” to
19 facilitate the ability of a developer to secure financing for a
20 redevelopment project until such time as tax credits are issued
21 pursuant to the “New Jersey Aspire Program Act,” sections 54 through
22 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as
23 amended as supplemented. Through the program, the authority shall
24 provide full or partial loans or loan guarantees, at the authority’s
25 discretion, to the developers of redevelopment projects for the purpose
26 of ensuring the completion of the redevelopment projects. As
27 determined by the authority, the Redevelopment Project Bridge
28 Financing Program may consist of:

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

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

33 b. (1) The authority may issue a redevelopment project bridge
34 financing loan to the developer of an approved redevelopment project,
35 upon application by the developer, provided that the authority
36 determines that:

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

39 (b) the redevelopment project bridge financing loan will enable the
40 completion of the redevelopment project.

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

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

45 (b) a proposed repayment schedule;

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

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

1 (3) The authority may issue the redevelopment project bridge
2 financing loan in such amount as it deems appropriate, subject to such
3 terms, including, but not limited to, interest rates, collateral, and
4 repayment or release schedules, as the authority shall deem reasonable
5 and appropriate ¹, except that each worker employed to perform
6 construction work on the redevelopment project shall be paid not less
7 than the prevailing wage rate for the worker's craft or trade, as
8 determined by the Commissioner of Labor and Workforce
9 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
10 P.L.2005, c.379 (C.34:11-56.58 et seq.)¹.

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

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

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

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

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

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

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

23 (3) The authority may issue the loan guarantees in such amounts as
24 it deems appropriate, subject to such terms as the authority deems
25 reasonable and appropriate ¹, except that each worker employed to
26 perform construction work on the redevelopment project shall be paid
27 not less than the prevailing wage rate for the worker's craft or trade, as
28 determined by the Commissioner of Labor and Workforce
29 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
30 P.L.2005, c.379 (C.34:11-56.58 et seq.)¹.

31 d. (1) The authority shall establish a Redevelopment Project
32 Bridge Financing Revolving Fund from which the authority shall
33 provide all loans issued pursuant to subsection b. of this section and
34 provide all loan guarantees issued pursuant to subsection c. of this
35 section. All monies received from payments of the principle and
36 interest for loans issued pursuant to this section shall be deposited into
37 the Redevelopment Project Bridge Financing Revolving Fund, which
38 fund shall remain until the authority determines that there no longer
39 remains a need for bridge financing or until December 31, 2028,
40 whichever occurs first. After the fund is no longer needed, or upon its
41 expiration, all monies in the fund shall be deposited into the General
42 Fund.

43 (2) Within 90 days after the effective date of P.L. , c. (C.)
44 (pending before the Legislature as this bill), the authority shall submit
45 a recommendation to the Governor and to the Legislature, pursuant to
46 section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of

1 appropriations needed to fund the Redevelopment Project Bridge
2 Financing Program.]³

3
4 ³[12. (New section) a. To facilitate the efficient
5 monetization of tax credits awarded under the program, the
6 Department of the Treasury shall ²[, at such times as the
7 department deems necessary,]² redeem the tax credits ²[awarded
8 to] surrendered for redemption by² a developer for a redevelopment
9 project at a discount from face value. ²[The tax credit redemptions
10 shall be made at such discounts as the State Treasurer deems
11 appropriate, except that the discount shall not exceed 10 percent of
12 the face value of the tax credits.]²

13 b. ²To effectuate a redemption authorized pursuant to this
14 section, in lieu of applying any tax credit certificate or tax credit
15 transfer certificate against tax liability otherwise due pursuant to
16 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
17 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
18 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, a taxpayer may
19 surrender a tax credit certificate or tax credit transfer certificate for
20 redemption to the director for a cash payment equal to 90 percent of
21 the amount of tax credits evidenced by the certificate, provided that
22 the issuance date of the tax credit certificate or tax credit transfer
23 certificate to the taxpayer surrendering such certificate occurred at
24 least one year prior to the date of surrender and that the certificate
25 has not been sold or assigned previously.

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

35
36 ³[13.] 9.³ Section 89 of P.L.2020, c.156 (C.52:18A-263) is
37 amended to read as follows:

38 89. a. The Director of the Division of Taxation in the
39 Department of the Treasury may purchase unused tax credits
40 awarded under a program listed in subsection b. of this section,
41 including tax credit transfer certificates issued by the director in
42 lieu of a tax credit allowed under such programs. The director shall
43 not pay consideration in excess of 75 percent of the credit amount
44 to be purchased, except for a credit awarded under:

45 (1) the "Emerge Program Act," sections 68 through 81 of
46 P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the

- 1 provisions of paragraph (4) of subsection d. of section 77 of
 2 P.L.2020, c.156 (C.34:1B-345); ³**[or]**³
- 3 (2) the “New Jersey Aspire Program Act,” sections 54 through
 4 67 ³of P.L.2020, c.156³ (²**[C.34:1B-222]** C.34:1B-322² through
 5 C.34:1B-335), as amended and supplemented, ³for³ which ³**[shall**
 6 be subject to the provisions of section 12 of P.L. , c. (C.)
 7 (pending before the Legislature as this bill)] the director shall pay an
 8 amount equal to 85 percent of the credit amount, provided that the
 9 issuance date of the tax credit certificate or tax credit transfer
 10 certificate to the developer or the holder of such certificate occurred at
 11 least one year prior to the date of application to the director, and
 12 further provided that, if the application to the director is submitted
 13 after the sixth year of the eligibility period, the amount in excess of the
 14 reasonable and appropriate rate of return on investment that the
 15 developer is required to pay pursuant to subsection c. of section 60 of
 16 P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or
- 17 (3) the “Cultural Arts Incentives Program Act,” P.L.2023, c.197
 18 (C.34:1B-383 et al.), for which the director shall pay an amount equal
 19 to 85 percent of the credit amount, provided that the issuance date of
 20 the tax credit certificate or tax credit transfer certificate to the
 21 developer or the holder of such certificate occurred at least one year
 22 prior to the date of application to the director³.
- 23 b. The Director of the Division of Taxation in the Department
 24 of the Treasury may purchase tax credits awarded under the
 25 following:
- 26 (1) the "Historic Property Reinvestment Act," sections ²**[1]** 2²
 27 through 8 of P.L.2020, c.156 (²**[C.34:1B-269]** C.34:1B-270²
 28 through C.34:1B-276);
- 29 (2) the "Brownfield Redevelopment Incentive Program Act,"
 30 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
 31 C.34:1B-287);
- 32 (3) the "New Jersey Innovation Evergreen Act," sections 20
 33 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);
- 34 (4) the "Food Desert Relief Act," sections 35 through 42 of
 35 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);
- 36 (5) the "New Jersey Community-Anchored Development Act,"
 37 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
 38 C.34:1B-321);
- 39 (6) the "New Jersey Aspire Program Act," sections 54 through
 40 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);
- 41 (7) the "Emerge Program Act," sections 68 through 81 of
 42 P.L.2020, c.156 (C.34:1B-336 et al.);
- 43 (8) the Grow New Jersey Assistance Program established
 44 pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);
- 45 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

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

4 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); ³[and]³

5 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b) ³; and

6 (13) the “Cultural Arts Incentives Program Act,” P.L.2023,
7 c.197 (C.34:1B-383 et al.)³.

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

9

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (F) (i) The amount by which depreciation reported to the United
47 States Treasury Department for property placed in service on and

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

18 (ii) For the periods set forth in subparagraph (F)(i) of paragraph
19 (2) of this subsection, any amount, except with respect to qualified
20 mass commuting vehicles as described in section 168(f)(8)(D)(v) of
21 the Internal Revenue Code as in effect immediately prior to January
22 1, 1984, which the taxpayer claimed as a deduction in computing
23 federal income tax pursuant to a qualified lease agreement under
24 paragraph (8) of that section.

25 The director shall promulgate rules and regulations necessary to
26 carry out the provisions of this section, which rules shall provide,
27 among others, the manner in which the remaining life of property
28 shall be reported.

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

46 (ii) The amount of treble damages paid to the Department of
47 Environmental Protection pursuant to subsection a. of section 7 of

1 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the
2 department in removing, or arranging for the removal of, an
3 unauthorized discharge upon failure of the discharger to comply
4 with a directive from the department to remove, or arrange for the
5 removal of, the discharge.

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

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

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

35 With respect to privilege periods ending before July 31, 2023, a
36 deduction shall also be permitted to the extent that the taxpayer
37 establishes by a preponderance of the evidence, as determined by
38 the director, that the interest is directly or indirectly paid, accrued
39 or incurred to (i) a related member in a foreign nation which has in
40 force a comprehensive income tax treaty with the United States and
41 the related member (aa) was subject to tax in the foreign nation on a
42 tax base that included the payment paid, accrued, or incurred; and
43 (bb) under which the related member's income received from the
44 transaction was taxed at an effective tax rate equal to or greater than
45 a rate of three percentage points less than the rate of tax applied to
46 taxable interest by the State of New Jersey pursuant to section 5 of
47 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer

1 shall disclose on its return for the privilege period the name of the
2 related member, the amount of the interest, the relevant foreign
3 nation, and such other information as the director may prescribe or
4 (ii) to an independent lender and the taxpayer guarantees the debt
5 on which the interest is required. The adjustments required by this
6 subparagraph shall not apply to transactions between related
7 members included in a combined group reported on a New Jersey
8 combined return.

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

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

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

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

1 (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163),
2 with regard to affiliates that were members of the federal
3 consolidated return but were not members of the combined group
4 included on the New Jersey combined return, the combined group
5 and the affiliates will also be treated as having filed one federal
6 consolidated return.

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

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

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

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

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

30 (ii) Making or placing deposits with foreign persons which are
31 banks or foreign branches of banks (including foreign subsidiaries)
32 or foreign branches of the taxpayers or with other international
33 banking facilities;

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

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

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

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

1 (ii) For privilege periods beginning after December 31, 2016
2 and before January 1, 2019, entire net income shall exclude 95% of
3 dividends which were included in computing such taxable income
4 for federal income tax purposes, paid or deemed paid, to the
5 taxpayer by one or more subsidiaries owned by the taxpayer to the
6 extent of the 80% or more ownership of investment described in
7 subsection (d) of this section. For the purposes of calculating the
8 tax liability owed for the paid or deemed paid dividends included in
9 entire net income by this subsubparagraph (ii), the taxpayer shall
10 use either their three-year average allocation factor for the
11 taxpayer's 2014 through 2016 tax years reported on the taxpayer's
12 tax returns or 3.5 percent, whichever is lower.

13 (iii) For privilege periods beginning on and after January 1, 2019
14 and ending before July 31, 2023, entire net income shall exclude
15 95% of dividends which were included in computing such taxable
16 income for federal income tax purposes, paid or deemed paid to the
17 taxpayer by one or more subsidiaries owned by the taxpayer to the
18 extent of the 80% or more ownership of investment described in
19 subsection (d) of this section.

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

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

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

44 (D) For privilege periods ending on and after July 31, 2019 but
45 before July 31, 2020, to the extent a subsidiary received dividends
46 from other subsidiaries and included those dividends in its entire net
47 income for the purposes of determining its tax liability pursuant to

1 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
2 dividends, the taxpayer receiving those same dividends from the
3 subsidiary shall exclude those dividends from its entire net income.

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

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

10 (i) The exclusion provided by this paragraph (5) shall be
11 deducted from entire net income after the State modifications that
12 increase federal entire net income but before the other State
13 modifications that reduce entire net income and before the
14 allocation of entire net income to this State.

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

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

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

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

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

7 (D) Change in ownership. Where there is a change in 50% or
8 more of the ownership of a corporation because of redemption or
9 sale of stock and the corporation changes the trade or business
10 giving rise to the loss, no net operating loss sustained before the
11 changes may be carried over to be deducted from income earned
12 after such changes. In addition where the facts support the premise
13 that the corporation was acquired under any circumstances for the
14 primary purpose of the use of its net operating loss carryover, the
15 director may disallow the carryover.

16 (E) Notwithstanding the provisions of this paragraph (6) of
17 subsection (k) of this section to the contrary, for privilege periods
18 beginning during calendar year 2002 and calendar year 2003, no
19 deduction for any net operating loss carryover shall be allowed and
20 for privilege periods beginning during calendar year 2004 and
21 calendar year 2005, there shall be allowed as a deduction for the
22 privilege period so much of the net operating loss carryover as
23 reduces entire net income otherwise calculated by 50%. If and only
24 to the extent that any net operating loss carryover deduction is
25 disallowed by reason of this subparagraph (E), the date on which
26 the amount of the disallowed net operating loss carryover deduction
27 would otherwise expire shall be extended by a period equal to the
28 period for which application of the net operating loss was
29 disallowed by this subparagraph.

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

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

43 (7) The entire net income of gas, electric and gas and electric
44 public utilities that were subject to, or would have been subject to
45 tax if doing business in this State, the provisions of P.L.1940, c.5
46 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by
47 substituting the New Jersey depreciation allowance for federal tax

1 depreciation with respect to assets placed in service prior to January
2 1, 1998. For gas, electric, and gas and electric public utilities that
3 were subject to, or would have been subject to tax if doing business
4 in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.)
5 prior to 1998, the New Jersey depreciation allowance shall be
6 computed as follows: All depreciable assets placed in service prior
7 to January 1, 1998 shall be considered a single asset account. The
8 New Jersey tax basis of this depreciable asset account shall be an
9 amount equal to the carryover adjusted basis for federal income tax
10 purposes on December 31, 1997 of all depreciable assets in service
11 on December 31, 1997, increased by the excess, of the "net carrying
12 value," defined to be adjusted book basis of all assets and liabilities,
13 excluding deferred income taxes, recorded on the public utility's
14 books of account on December 31, 1997, over the carryover
15 adjusted basis for federal income tax purposes on December 31,
16 1997 of all assets and liabilities owned by the gas, electric, or gas
17 and electric public utility as of December 31, 1997. "Books of
18 account" for gas, gas and electric, and electric public utilities means
19 the uniform system of accounts as promulgated by the Federal
20 Energy Regulatory Commission and adopted by the Board of Public
21 Utilities. The following adjustments to entire net income shall be
22 made pursuant to this section:

23 (A) Depreciation for property placed in service prior to January
24 1, 1998 shall be adjusted as follows:

25 (i) Depreciation for federal income tax purposes shall be
26 disallowed in full.

27 (ii) A deduction shall be allowed for the New Jersey
28 depreciation allowance. The New Jersey depreciation allowance
29 shall be computed for the single asset account described above
30 based on the New Jersey tax basis as adjusted above as if all assets
31 in the single asset account were first placed in service on January 1,
32 1998. Depreciation shall be computed using the straight line method
33 over a thirty-year life. A full year's depreciation shall be allowed in
34 the initial tax year. No half-year convention shall apply. The
35 depreciable basis of the single account shall be reduced by the
36 adjusted federal tax basis of assets sold, retired, or otherwise
37 disposed of during any year on which gain or loss is recognized for
38 federal income tax purposes as described in subparagraph (B) of
39 this paragraph.

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

44 (C) The Director of the Division of Taxation shall promulgate
45 regulations describing the methodology for allocating the single
46 asset account in the event that a portion of the utility's operations

1 are separated, spun-off, transferred to a separate company or
2 otherwise desegregated.

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

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

15 (10) Entire net income shall exclude all income of an alien
16 corporation the activities of which are limited in this State to
17 investing or trading in stocks and securities for its own account,
18 investing or trading in commodities for its own account, or any
19 combination of those activities, within the meaning of section 864
20 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in
21 effect on December 31, 1998. Notwithstanding the previous
22 sentence, if an alien corporation undertakes one or more infrequent,
23 extraordinary or non-recurring activities, including but not limited
24 to the sale of tangible property, only the income from such
25 infrequent, extraordinary or non-recurring activity shall be subject
26 to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et
27 seq.), and that amount of income subject to tax shall be determined
28 without regard to the allocation to that specific transaction of any
29 general business expense of the taxpayer and shall be specifically
30 assigned to this State for taxation by this State without regard to
31 section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this
32 paragraph, "alien corporation" means a corporation organized under
33 the laws of a jurisdiction other than the United States or its political
34 subdivisions.

35 (11) No deduction shall be allowed for research and experimental
36 expenditures, to the extent that those research and experimental
37 expenditures are qualified research expenses or basic research
38 payments for which an amount of credit is claimed pursuant to
39 section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research
40 and experimental expenditures are also used to compute a federal
41 credit claimed pursuant to section 41 of the federal Internal
42 Revenue Code of 1986, 26 U.S.C. s.41; provided, however, for
43 privilege periods beginning on and after January 1, 2022, a
44 deduction for research and experimental expenditures shall be
45 allowed during the same privilege period for which a credit is
46 claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24),
47 notwithstanding the timing schedule required by the federal Internal

1 Revenue Code of 1986, 26 U.S.C. s.174, for the deduction of
2 specified research and experimental expenditures.

3 (12)(A) Notwithstanding the provisions of subsection (k) of
4 section 168 of the federal Internal Revenue Code of 1986, 26
5 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal
6 Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal
7 law, for property acquired after September 10, 2001, the
8 depreciation deduction otherwise allowed pursuant to section 167 of
9 the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall
10 be determined pursuant to the provisions of the federal Internal
11 Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on
12 December 31, 2001.

13 (B) The director shall prescribe the rules and regulations
14 necessary to carry out the provisions of this paragraph, including,
15 among others, those for determining the adjusted basis of the
16 acquired property for the purposes of the Corporation Business Tax
17 Act (1945), P.L.1945, c.162 ²(C.54:10A-1 et seq.)².

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

25 (B) The director shall prescribe the rules and regulations
26 necessary to carry out the provisions of this paragraph, including,
27 among others, those for determining the adjusted basis of the
28 acquired property for the purposes of the Corporation Business Tax
29 Act (1945), P.L.1945, c. 162 ²(C.54:10A-1 et seq.)².

30 (14)Notwithstanding the provisions of subsection (i) of section
31 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
32 for privilege periods beginning after December 31, 2008 and before
33 January 1, 2011, entire net income shall include the amount of
34 discharge of indebtedness income excluded for federal income tax
35 purposes pursuant to subsection (i) of section 108 of the federal
36 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
37 periods beginning on or after January 1, 2014 and before January 1,
38 2019, entire net income shall exclude the amount of discharge of
39 indebtedness income included for federal income tax purposes,
40 pursuant to subsection (i) of section 108 of the federal Internal
41 Revenue Code of 1986 (26 U.S.C. s.108).

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

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

3 (B) For purposes of this paragraph, "net deferred tax liability"
4 means deferred tax liabilities that exceed the deferred tax assets of
5 the combined group, as computed in accordance with generally
6 accepted accounting principles, and "net deferred tax asset" means
7 that deferred tax assets exceed the deferred tax liabilities of the
8 combined group, as computed in accordance with generally
9 accepted accounting principles.

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

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

22 (E) (i) Beginning with the combined group's first privilege
23 period on or after January 1 of the fifth year after the effective date
24 of P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
25 entitled to a deduction from combined group entire net income
26 equal to one-tenth of the amount necessary to offset the increase in
27 the net deferred tax liability or decrease in the net deferred tax
28 asset, or aggregate change from a net deferred tax asset to a net
29 deferred tax liability, according to the schedule provided by
30 subparagraphs (ii) and (iii) of this subparagraph (E). Such
31 increase in the net deferred tax liability or decrease in the net
32 deferred tax asset or the aggregate change from a net deferred tax
33 asset to a net deferred tax liability shall be computed based on the
34 change that would result from the imposition of the unitary
35 reporting requirements under sections 1 and 18 through 23 of
36 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
37 C.54:10A-4.11) but for the deduction provided under this paragraph
38 as of the effective date of this paragraph.

39 (ii) For group privilege periods beginning on and after January
40 1, 2023, but before January 1, 2030, the combined group may
41 deduct one percent of the amount necessary to offset the increase in
42 the net deferred tax liability or decrease in the net deferred tax
43 asset, or aggregate change from a net deferred tax asset to a net
44 deferred tax liability, during a group privilege period. Such
45 increase in the net deferred tax liability or decrease in the net
46 deferred tax asset or the aggregate change from a net deferred tax
47 asset to a net deferred tax liability shall be computed based on the

1 change that would result from the imposition of the unitary
2 reporting requirements under sections 1 and 18 through 23 of
3 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-
4 4.11) but for the deduction provided under this paragraph as of the
5 effective date of this paragraph.

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

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

21 (i) the deferred tax impact determined in subparagraph (E) of
22 this paragraph shall be divided by the rate determined under section
23 5 of P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018,
24 c.48 (C.54:10A-5.41 et al.);

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

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

33 (G) The deduction calculated under this paragraph shall not be
34 adjusted as a result of any events happening subsequent to such
35 calculation, including, but not limited to, any disposition or
36 abandonment of assets. Such deduction shall be calculated without
37 regard to the federal tax effect and shall not alter the tax basis of
38 any asset. If the deduction under this section is greater than
39 combined group entire net income, any excess deduction shall be
40 carried forward and applied as a deduction to combined group entire
41 net income in future privilege periods until fully utilized.

42 (H) Any combined group intending to claim a deduction under
43 this paragraph shall file a statement with the director on or before
44 July 1 of the year subsequent to the first privilege period for which
45 a combined return is required. Such statement shall specify the total
46 amount of the deduction which the combined group claims on such
47 form and in such manner as prescribed by the director. No

1 deduction shall be allowed under this paragraph for any privilege
2 period except to the extent claimed on such timely filed statement
3 in accordance with this paragraph.

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

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

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

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

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

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

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

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

38 (n) "International banking facility" shall mean a set of asset and
39 liability accounts segregated on the books and records of a
40 depository institution, United States branch or agency of a foreign
41 bank, or an Edge or Agreement Corporation that includes only
42 international banking facility time deposits and international
43 banking facility extensions of credit as such terms are defined in
44 section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the
45 board of governors of the Federal Reserve System, 12 CFR Part
46 204, effective December 3, 1981. In the event that the United States
47 enacts a law, or the board of governors of the Federal Reserve

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

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

12 (p) "New Jersey S corporation" means a taxpayer that has made
13 a valid election to be an S corporation for federal tax purposes, and
14 that has not made a valid election pursuant to subsection d. of
15 section ²[20] ₃² of ²[P.L.2022, c.133] P.L.1993, c.173²
16 (C.54:10A-5.22).

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

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

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

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

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

41 (1) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (5) Change in ownership. Where there is a change in 50% or
46 more of the ownership of a corporation because of redemption or
47 sale of stock and the corporation changes the trade or business

1 giving rise to the loss, no net operating loss sustained before the
2 changes may be carried over to be deducted from income earned
3 after such changes. In addition, where the facts support the premise
4 that the corporation was acquired under any circumstances for the
5 primary purpose of the use of its net operating loss carryover, the
6 director may disallow the carryover; provided, however, this
7 paragraph shall not apply between members of a combined group
8 reported on a New Jersey combined return.

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

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

47 For purposes of this subsection:

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

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

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

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

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

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

28 (4) 50% or less of whose gross receipts for the privilege period
29 consist of premiums from arrangements that constitute insurance for
30 federal income tax purposes.

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

37 For purposes of this definition:

38 "Affiliated group" shall have the same meaning as that term is
39 given by section 1504 of the federal Internal Revenue Code, 26
40 U.S.C. s.1504, except that the term "common parent corporation" as
41 used in section 1504 of the federal Internal Revenue Code, 26
42 U.S.C. s.1504, shall mean any person, as defined in section 7701 of
43 the federal Internal Revenue Code, 26 U.S.C. s.7701, and references
44 to "at least 80%" in section 1504 of the federal Internal Revenue
45 Code, 26 U.S.C. s.1504, shall be read as "50% or more." Section
46 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall

1 be read without regard to the exclusions provided for in subsection
2 (b) of that section.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 business conducted by another corporation through its direct or
2 indirect interest in a partnership.

3 (hh) "Captive investment company" shall mean, for privilege
4 periods ending on and after July 31, 2023, an investment company
5 that is not regularly traded on an established securities market and
6 of which more than 50 percent of the voting stock is owned or
7 controlled, directly or indirectly, by a single corporation, other than
8 an investment company, that is not exempt from federal income tax.
9 For purposes of this subsection, a captive investment company shall
10 not include any captive investment company of which at least 50
11 percent of the shares, by vote or value, is owned or controlled,
12 directly or indirectly, by a state or federally chartered bank, savings
13 bank, or savings and loan association with assets that do not exceed
14 \$15 billion.

15 For privilege periods ending on and after July 31, 2023, any
16 voting stock in an investment company that is held in a segregated
17 asset account of a life insurance corporation, as described in section
18 817 of the Internal Revenue Code, shall not be taken into account
19 for purposes of determining whether an investment company is a
20 captive regulated investment company.

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

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

45 For privilege periods ending on and after July 23, 2023, any
46 voting stock in a real estate investment trust that is held in a
47 segregated asset account of a life insurance corporation, as

1 described in section 817 of the Internal Revenue Code (26 U.S.C.
2 s.817), shall not be taken into account for purposes of determining
3 whether a real estate investment trust is a captive real estate
4 investment trust. For purposes of this subsection, an association
5 taxable as a corporation shall not include any listed Australian
6 property trust or any qualified foreign entity.

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

17 As used in this subsection:

18 "Australian property trust" means an Australian unit trust that is
19 registered as a managed investment scheme under the Australian
20 Corporations Act, and in which the principal class of units is listed
21 on a recognized stock exchange in Australia and is regularly traded
22 on an established securities market; or an entity organized as a trust,
23 provided that a listed Australian property trust owns or controls,
24 directly or indirectly, 75 percent or more of the voting power or
25 value of the beneficial interests of shares of the trust.

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

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

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

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

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

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

3 (jj) "Captive regulated investment company" shall mean, for
4 privilege periods ending on and after July 31, 2023, a regulated
5 investment company that is not regularly traded on an established
6 securities market, and of which more than 50 percent of the voting
7 stock is owned or controlled, directly or indirectly, by a single
8 corporation, other than a regulated investment company, that is not
9 exempt from federal income tax. For purposes of this subsection, a
10 captive regulated investment company shall not include any captive
11 regulated investment company of which at least 50 percent of the
12 shares, by vote or value, is owned or controlled, directly or
13 indirectly, by a state or federally chartered bank, savings bank, or
14 savings and loan association with assets that do not exceed \$15
15 billion.

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

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

33 (kk) "World-wide basis" and "world-wide group" shall mean, for
34 privilege periods ending on and after July 31, 2022, for the
35 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6
36 through C.54:10A-4.11) and for the purposes of combined reporting
37 in general under the Corporation Business Tax Act (1945),
38 P.L.1945, c.162 (C.54:10A-1 et seq.), that the combined group shall
39 include all of the members of the combined group, wherever located
40 or formed. For privilege periods ending on and after July 31, 2022,
41 the combined group shall include all of the income and attributes of
42 those members regardless of how or whether those members file
43 federal returns or report or include their income in federal taxable
44 income for federal purposes, and without regard to any exemption
45 or exclusion from federal taxable income under the terms of a tax
46 treaty; provided, however, any deductions that are allowed under
47 the federal Internal Revenue Code that are also allowable under the

1 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
2 et seq.), that would apply to a U.S. corporation, but that a non-U.S.
3 corporation is prohibited from claiming for federal corporation
4 income tax purposes because the corporation's income was not
5 included in federal taxable income for any reason or because the
6 corporation is a non-U.S. corporation, shall be allowed for the non-
7 U.S. corporation members of the combined group for New Jersey
8 corporation business tax purposes as though those non-U.S.
9 corporation members were U.S. corporations.
10 (cf: P.L.2023, c.96, s.1)³

11

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

13 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
14 income shall consist of the following categories of income:

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

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

27 (1) taxes based on income;

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

45 (3) treble damages paid to the Department of Environmental
46 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
47 (C.58:10-23.11f) for costs incurred by the department in removing,

1 or arranging for the removal of, an unauthorized discharge upon the
2 failure of the discharger to comply with a directive from the
3 department to remove, or arrange for the removal of, a discharge.

4 c. Net gains or income from disposition of property. Net gains
5 or net income, less net losses, derived from the sale, exchange or
6 other disposition of property, including real or personal, whether
7 tangible or intangible as determined in accordance with the method
8 of accounting allowed for federal income tax purposes. For the
9 purpose of determining gain or loss, the basis of property shall be
10 the adjusted basis used for federal income tax purposes, except as
11 expressly provided for under this act, but without a deduction for
12 penalties, fines, or economic benefits excepted pursuant to
13 paragraph (2), or for treble damages excepted pursuant to paragraph
14 (3) of subsection b. of this section.

15 A taxpayer's net gain or loss on the sale, exchange or other
16 disposition of a share of an S corporation shall be calculated by
17 increasing the adjusted basis of the share by an amount equal to the
18 shareholder's net losses and deductions in respect of the share
19 allowed and deducted from income for federal income tax purposes,
20 not including any personal net operating loss deductions, to the
21 extent that such net losses were not offset by the taxpayer's pro rata
22 share of S corporation income otherwise subject to taxation
23 pursuant to subsection p. of this section in respect of another S
24 corporation, subject to rules of priority and assignment determined
25 by the director.

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

36 The term "net gains or income" shall not include gains or income
37 derived from obligations which are referred to in clause (1) or (2) of
38 N.J.S.54A:6-14 of this act or from securities which evidence
39 ownership in a qualified investment fund as defined in section 2 of
40 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
41 shall not include gains or income derived from the sale or
42 assignment of a tax credit transfer certificate pursuant to section 7
43 of P.L.2011, c.149 (C.34:1B-248) **[and]**, section 10 of P.L.2014,
44 c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of
45 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
46 supplemented, from any sale or assignment of a tax credit issued
47 pursuant to an award of tax credits approved by the New Jersey

1 Economic Development Authority **【prior to July 1, 2018】**,
2 regardless of when such sale or assignment occurs. The term "net
3 gains or net income" shall not include gains or income from
4 transactions to the extent to which nonrecognition is allowed for
5 federal income tax purposes. The term "sale, exchange or other
6 disposition" shall not include the exchange of stock or securities in
7 a corporation a party to a reorganization in pursuance of a plan of
8 reorganization, solely for stock or securities in such corporation or
9 in another corporation a party to the reorganization and the transfer
10 of property to a corporation by one or more persons solely in
11 exchange for stock or securities in such corporation if immediately
12 after the exchange such person or persons are in control of the
13 corporation. For purposes of this clause, stock or securities issued
14 for services shall not be considered as issued in return for property.

15 For purposes of this clause, the term "reorganization" means **【--】**:

16 (i) A statutory merger or consolidation;

17 (ii) The acquisition by one corporation, in exchange solely for
18 all or part of its voting stock (or in exchange solely for all or a part
19 of the voting stock of a corporation which is in control of the
20 acquiring corporation) of stock of another corporation if,
21 immediately after the acquisition, the acquiring corporation has
22 control of such other corporation (whether or not such acquiring
23 corporation had control immediately before the acquisition);

24 (iii) The acquisition by one corporation, in exchange solely for
25 all or part of its voting stock (or in exchange solely for all or a part
26 of the voting stock of a corporation which is in control of the
27 acquiring corporation), of substantially all of the properties of
28 another corporation, but in determining whether the exchange is
29 solely for stock the assumption by the acquiring corporation of a
30 liability of the other, or the fact that property acquired is subject to
31 a liability, shall be disregarded;

32 (iv) A transfer by a corporation of all or a part of its assets to
33 another corporation if immediately after the transfer the transferor,
34 or one or more of its shareholders (including persons who were
35 shareholders immediately before the transfer), or any combination
36 thereof, is in control of the corporation to which the assets are
37 transferred;

38 (v) A recapitalization;

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

41 (vii) The acquisition by one corporation, in exchange for stock of
42 a corporation (referred to in this subclause as "controlling
43 corporation") which is in control of the acquiring corporation, of
44 substantially all of the properties of another corporation which in
45 the transaction is merged into the acquiring corporation shall not
46 disqualify a transaction under subclause (i) if such transaction
47 would have qualified under subclause (i) if the merger had been into

1 the controlling corporation, and no stock of the acquiring
2 corporation is used in the transaction;

3 (viii) A transaction otherwise qualifying under subclause (i) shall
4 not be disqualified by reason of the fact that stock of a corporation
5 (referred to in this subclause as the "controlling corporation") which
6 before the merger was in control of the merged corporation is used
7 in the transaction, if after the transaction, the corporation surviving
8 the merger holds substantially all of its properties and of the
9 properties of the merged corporation (other than stock of the
10 controlling corporation distributed in the transaction); and in the
11 transaction, former shareholders of the surviving corporation
12 exchanged, for an amount of voting stock of the controlling
13 corporation, an amount of stock in the surviving corporation which
14 constitutes control of such corporation.

15 For purposes of this clause, the term "control" means the
16 ownership of stock possessing at least 80% of the total combined
17 voting power of all classes of stock entitled to vote and at least 80%
18 of the total number of shares of all other classes of stock of the
19 corporation.

20 For purposes of this clause, the term "a party to a reorganization"
21 includes a corporation resulting from a reorganization, and both
22 corporations, in the case of a reorganization resulting from the
23 acquisition by one corporation of stock or properties of another. In
24 the case of a reorganization qualifying under subclause (i) by reason
25 of subclause (vii) the term "a party to a reorganization" includes the
26 controlling corporation referred to in such subclause (vii).

27 Notwithstanding any provisions hereof, upon every such
28 exchange or conversion, the taxpayer's basis for the stock or
29 securities received shall be the same as the taxpayer's actual or
30 attributed basis for the stock, securities or property surrendered in
31 exchange therefor.

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

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

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

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

- 1 g. Gambling winnings.
- 2 h. Net gains or income derived through estates or trusts.
- 3 i. Income in respect of a decedent.
- 4 j. Amounts distributed or withdrawn from an employee trust
5 attributable to contributions to the trust which were excluded from
6 gross income under the provisions of chapter 6 of Title 54A of the
7 New Jersey Statutes, amounts rolled over from an IRA, as defined
8 pursuant to subsection (a) of section 408 of the federal Internal
9 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
10 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
11 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
12 annuities except to the extent of exclusions in N.J.S.54A:6-10
13 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
14 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
15 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
16 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
17 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,
18 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
19 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
20 and P.L.1943, c.189, s.5 (C.43:13-37.5).
- 21 k. Distributive share of partnership income, excluding the gain
22 or income derived from the sale or assignment of a tax credit
23 transfer certificate pursuant to section 7 of P.L.2011, c.149
24 (C.34:1B-248) **and**, section 10 of P.L.2014, c.63 (C.34:1B-251),
25 or the "New Jersey Economic Recovery Act of 2020," P.L.2020,
26 c.156 (C.34:1B-269 et al.), as amended and supplemented, from any
27 sale or assignment of a tax credit issued pursuant to an award of tax
28 credits approved by the New Jersey Economic Development
29 Authority **prior to July 1, 2018**, regardless of when such sale or
30 assignment occurs.
- 31 l. Amounts received as prizes and awards, except as provided
32 in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.
- 33 m. Rental value of a residence furnished by an employer or a
34 rental allowance paid by an employer to provide a home.
- 35 n. Alimony and separate maintenance payments to the extent
36 that such payments are required to be made under a decree of
37 divorce or separate maintenance but not including payments for
38 support of minor children.
- 39 o. Income, gain or profit derived from acts or omissions
40 defined as crimes or offenses under the laws of this State or any
41 other jurisdiction.
- 42 p. Net pro rata share of S corporation income, excluding the
43 gain or income derived from the sale or assignment of a tax credit
44 transfer certificate pursuant to section 7 of P.L.2011, c.149
45 (C.34:1B-248) **and**, section 10 P.L.2014, c.63 (C.34:1B-251), or
46 the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156
47 (C.34:1B-269 et al.), as amended and supplemented, from any sale

1 or assignment of a tax credit issued pursuant to an award of tax
2 credits approved by the New Jersey Economic Development
3 Authority [prior to July 1, 2018], regardless of when such sale or
4 assignment occurs.
5 (cf: P.L.2018, c.131, s.8)]³
6

7 ³[¹16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to
8 read as follows:

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

41 b. The New Jersey Economic Development Authority shall
42 adopt rules and regulations requiring that not less than the
43 prevailing wage rate be paid to workers employed in the
44 performance of any contract, for construction, demolition,
45 remediation, removal of hazardous substances, alteration, custom
46 fabrication, repair work, or maintenance work, including painting
47 and decorating, or excavation, grading, pile driving, concrete form,

1 or other types of foundation work in connection with the "New
2 Jersey Community-Anchored Development Act," sections 43
3 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321),
4 the "New Jersey Aspire Program Act," sections 54 through 67 of
5 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
6 "²[New Jersey]² Emerge Program Act," sections 68 through 81 of
7 P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this
8 subsection shall apply to any site preparation work performed 24
9 months prior to and during the incentive eligibility period of any
10 project receiving tax credits under the "New Jersey Community-
11 Anchored Development Act," sections 43 through 53 of P.L.2020,
12 c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
13 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
14 322 through C.34:1B-335), and the "²[New Jersey]² Emerge
15 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
16 336 et al.), and to projects receiving financial assistance under the
17 "Redevelopment Project Bridge Financing Program," established
18 pursuant to section 11 of P.L. , c. (C.) (pending before the
19 Legislature as this bill), in which there is a continuity of ownership
20 in the site of the redevelopment project, including work undertaken
21 to fulfill any condition of receiving tax credits under the programs.
22 Work that is subject to the requirements of this subsection shall
23 include the performance of any contract for construction,
24 demolition, remediation, removal of hazardous substances,
25 alteration, custom fabrication, repair work, or maintenance work,
26 including painting and decorating, or excavation, grading, pile
27 driving, concrete form, or other types of foundation work
28 undertaken on a facility for operations which are necessary for the
29 receipt of tax credits under the "New Jersey Community-Anchored
30 Development Act," sections 43 through 53 of P.L.2020, c.156
31 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
32 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
33 322 through C.34:1B-335), and the "²[New Jersey]² Emerge
34 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
35 336 et al.), or the receipt of financial assistance under the
36 "Redevelopment Project Bridge Financing Program," established
37 pursuant to section 11 of P.L. , c. (C.) (pending before the
38 Legislature as this bill), unless the work performed under the
39 contract is performed on a facility owned by a landlord of the entity
40 receiving the tax credit and less than 35 percent of the facility is
41 leased by the entity at the time of the contract and under any
42 agreement to subsequently lease the facility. The prevailing wage
43 rate shall be the rate determined by the Commissioner of Labor and
44 Workforce Development pursuant to the provisions of P.L.1963,
45 c.150 (C.34:11-56.25 et seq.), and all contractors and
46 subcontractors subject to the prevailing wage requirement set forth
47 in this section shall be registered with the Department of Labor and

1 Workforce Development pursuant to the provisions of section 5 of
 2 P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under
 3 the "New Jersey Community-Anchored Development Act," sections
 4 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-
 5 321), the "New Jersey Aspire Program Act," sections 54 through 67
 6 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
 7 "²[New Jersey]² Emerge Program Act," sections 68 through 81 of
 8 P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of
 9 perjury as part of its application that all construction contracts
 10 undertaken on any project in connection with an award under the
 11 programs comply with the prevailing wage requirements of this
 12 subsection. If at any time the authority determines that the
 13 developer made a material misrepresentation regarding compliance
 14 with the provisions of this subsection on the developer's
 15 application, the developer shall forfeit 35 percent of the tax credits
 16 allowed under the programs, and pay to the affected workers back
 17 wages in an amount that compensates the workers at the prevailing
 18 wage rate for the work performed.¹
 19 (cf: P.L.2020, c.156, s.112)]³

20
 21 ³10. (New section) a. Notwithstanding any provision of
 22 P.L.2020, c.156 (C.34:1B-269 et al.), section 14 of P.L.2023, c.98
 23 (C.34:1B-335.1), or any provision of law to the contrary, any
 24 project approved by the authority after the effective date of
 25 P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to:

26 (1) the requirements of subsection f. of section 57 of P.L.2020,
 27 c.156 (C.34:1B-325), as amended by P.L. , c. (C.) (pending
 28 before the Legislature as this bill), concerning the average
 29 occupancy rate of commercial projects;

30 (2) any lower fees promulgated by the authority on or after the
 31 effective date of P.L. , c. (C.) (pending before the
 32 Legislature as this bill), except that such lower fees shall not apply
 33 to any fees already paid to the authority;

34 (3) the requirements of paragraphs (1) and (4) of subsection f. of
 35 section 60 of P.L. 2020, c.156 (C.34:1B-328), as amended by
 36 P.L. , c. (C.) (pending before the Legislature as this bill),
 37 concerning the execution of community benefits agreements;

38 (4) the requirements of subsection b. of section 62 of P.L.2020,
 39 c.156 (C.34:1B-330), as amended by P.L. , c. (C.) (pending
 40 before the Legislature as this bill);

41 (5) the requirements of subsection a. of section 63 of P.L.2020,
 42 c.156 (C.34:1B-331), as amended by P.L. , c. (C.) (pending
 43 before the Legislature as this bill);

44 (6) the provisions of subsection b. and subsection c. of section
 45 60 of P.L.2020, c.156 (C.34:1B-328), as amended by P.L. ,
 46 c. (C.) (pending before the Legislature as this bill); and

1 (7) any other provision concerning the terms and conditions of
2 an incentive award issued under the New Jersey Aspire Program
3 that the authority determines will make the administration of the
4 program consistent with the provisions of the “New Jersey Aspire
5 Program Act,” sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
6 322 through C.34:1B-335), as amended and supplemented by
7 P.L. , c. (C.) (pending before the Legislature as this bill),
8 provided that such provision shall not have a materially adverse
9 impact on any projects approved by the authority before the
10 effective date of P.L. , c. (C.) (pending before the
11 Legislature as this bill).

12 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-
13 269 et al.), section 14 of P.L.2023, c.98 (C.34:1B-335.1), or any
14 other provision of law to the contrary, any project approved by the
15 authority after the effective date of P.L.2020, c.156 (C.34:1B-269 et
16 al.) shall not be subject to any proration of tax credits for any year
17 of the eligibility period.³

18

19 ¹[16.] ³[17.1] 11.³ This act shall take effect immediately.