

**SENATE, No. 1323**

**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As reported by the Senate Economic Growth Committee with technical review.



1 AN ACT concerning the New Jersey Aspire Program, amending  
2 various parts of the statutory law, and supplementing P.L.2020,  
3 c.156.  
4

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

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

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

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

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

16 "Aviation district" means all areas within the boundaries of the  
17 Atlantic City International Airport, established pursuant to section 24 of  
18 P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation  
19 Administration William J. Hughes Technical Center and the area within  
20 a one-mile radius of the outermost boundary of the Atlantic City  
21 International Airport and the Federal Aviation Administration William  
22 J. Hughes Technical Center.

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

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

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

39 "Collaborative workspace" means coworking, accelerator,  
40 incubator, or other shared working environments that promote  
41 collaboration, interaction, socialization, and coordination among  
42 tenants through the clustering of multiple businesses or individuals. For  
43 this purpose, the collaborative workspace shall be the greater of: 2,500  
44 of dedicated square feet or 10 percent of the total property on which the  
45 redevelopment project is situated. The collaborative workspace shall

**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.**

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1 include a community manager, be focused on collaboration among the  
2 community members, and include regularly scheduled education events  
3 for the community members. The collaborative workspace shall also  
4 include a physical open space that supports the engagement of its  
5 community members.

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

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

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

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

36 "Economic development incentive" means a financial incentive,  
37 awarded by the authority, or agreed to between the authority and a  
38 business or person, for the purpose of stimulating economic  
39 development or redevelopment in New Jersey, including, but not limited  
40 to, a bond, grant, loan, loan guarantee, matching fund, tax credit, or  
41 other tax expenditure.

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

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

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

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

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

25 "Government-restricted municipality" means a municipality in this  
26 State with a municipal revitalization index distress score of at least 75,  
27 that met the criteria for designation as an urban aid municipality in the  
28 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156  
29 (C.34:1B-269 et al.), is subject to financial restrictions imposed  
30 pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016,  
31 c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy  
32 property taxes on property in that municipality as a result of the State of  
33 New Jersey owning or controlling property representing at least 25  
34 percent of the total land area of the municipality or as a result of the  
35 federal government of the United States owning or controlling at least  
36 50 acres of the total land area of the municipality, which is dedicated as  
37 a national natural landmark.

38 "Health care or health services center" means an establishment that  
39 consists of not less than 10,000 square feet devoted to health care or  
40 health services, where patients are admitted for or seek examination and  
41 treatment by one or more physicians, dentists, psychologists, or other  
42 medical practitioners, and which is located in a municipality with a  
43 Municipal Revitalization Index distress score of at least 50, a distressed  
44 municipality, or a qualified incentive tract.

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

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

21 "Incentive award" means an award of tax credits to reimburse a  
22 developer for all or a portion of the project financing gap of a  
23 redevelopment project pursuant to the provisions of sections 54 through  
24 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

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

31 "Incubator facility" means a commercial property, which contains  
32 5,000 or more square feet of office, laboratory, or industrial space,  
33 which is located near, and presents opportunities for collaboration with,  
34 a research institution, teaching hospital, college, or university, and  
35 within which at least 75 percent of the gross leasable area is restricted  
36 for use by one or more technology startup companies.

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

44 "Labor harmony agreement" means an agreement between a  
45 business that serves as the owner or operator of a retail establishment,  
46 hospitality establishment, or distribution center and one or more labor  
47 organizations, which requires, for the duration of the agreement: that  
48 any participating labor organization and its members agree to refrain

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

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

28 "Major cultural institution" means a public or nonprofit institution,  
29 not including an institution of higher education, within this State that  
30 engages in the cultural, intellectual, scientific, environmental,  
31 educational, or artistic enrichment of the people of this State, and which  
32 institution is designated by the board as a major cultural institution.

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

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

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

46 "Moderate-income housing" means housing affordable according to  
47 federal Department of Housing and Urban Development or other  
48 recognized standards for home ownership and rental costs and occupied

1 or reserved for occupancy by households with a gross household income  
2 equal to more than 50 percent, but less than 80 percent, of the median  
3 gross household income for households of the same size within the  
4 housing region in which the housing is located.

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

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

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

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

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

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

1 or sidewalk construction or repair. The fees associated with the  
2 application or administration of a grant under sections 54 through 67 of  
3 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall not constitute  
4 a project cost, regardless of the location of the redevelopment project.

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

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

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

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

41 "Reasonable and appropriate return on investment" means the  
42 discount rate at which the present value of the future cash flows of an  
43 investment equals the cost of the investment. In determining the  
44 "reasonable and appropriate return on investment," an investment shall  
45 not include any federal, State, or local tax credits. For a residential  
46 project that utilizes federal low-income housing tax credits awarded by  
47 the agency, the "reasonable and appropriate return on investment" shall  
48 be based on the approval of deferred developer fees pursuant to the rules



1 established by the agency. In the event that a residential project, which  
2 utilizes federal low-income housing tax credits awarded by the agency,  
3 generates returns on equity other than federal or local grants or proceeds  
4 from the sale of federal or local tax credits, the "reasonable and  
5 appropriate return on investment" shall be based on both the discount  
6 rate at which the present value of the future cash flows of an investment  
7 equal the cost of the investment for the entire project, and when  
8 evaluating only the units financed with federal low-income housing tax  
9 credits awarded by the agency, the approval of deferred developer fees  
10 pursuant to the rules established by the agency.

11 "Redevelopment project" means a specific construction project or  
12 improvement or phase of a project or improvement undertaken by a  
13 developer, owner or tenant, or both, and any ancillary infrastructure  
14 project. A redevelopment project may involve construction or  
15 improvement upon lands, buildings, improvements, or real and personal  
16 property, or any interest therein, including lands under water, riparian  
17 rights, space rights, and air rights, acquired, owned, developed or  
18 redeveloped, constructed, reconstructed, rehabilitated, or improved.

19 "Residential project" means a redevelopment project that is  
20 predominantly residential, intended for multi-family residency, and may  
21 include a parking component.

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

24 "SDA municipality" means a municipality in which an SDA district  
25 is situated.

26 "Stranded asset" means any building previously used for  
27 commercial, retail, office space, manufacturing, or industrial purposes,  
28 which building is no longer used for such purposes, and which has been  
29 abandoned, experienced significant vacancies for at least two  
30 consecutive years, or has fallen into such disrepair as to be untenable.

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

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

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

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

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

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

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

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

22

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

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

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

1 effect immediately prior to the effective date of P.L.2023, c.98  
2 (C.34:1B-335.1 et al.), including, but not limited to, any requirements  
3 concerning the **【bedroom distributions,】** affordability averages,  
4 affirmative marketing, and long-term deed restrictions of residential  
5 units constructed for occupancy by low- and moderate-income  
6 households, except not including the bedroom distribution  
7 requirements for three-bedroom housing units.

8 b. The chief executive officer of the authority shall designate  
9 one staff member per government-restricted municipality in order to  
10 keep the municipality informed on activities within the municipality  
11 and to coordinate economic development initiatives.  
12 (cf: P.L.2023, c.98, s.2)

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

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

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

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

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

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

33 (b) if the developer has commenced demolition and site remediation  
34 activities at the site of the redevelopment project prior to submitting an  
35 application, all construction workers employed to undertake demolition  
36 and site remediation activities at the site were paid not less than the  
37 prevailing wage rate for the worker's craft or trade, as determined by  
38 the Commissioner of Labor and Workforce Development pursuant to  
39 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-  
40 56.58 et seq.);

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

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

46 (7) (a) during the eligibility period, each worker employed to  
47 perform construction work at the redevelopment project shall be paid  
48 not less than the prevailing wage rate for the worker's craft or trade, as

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

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

1 including each subsequent tax period in which the tax credits are  
2 otherwise authorized;

3 (c) in the event a redevelopment project, or any portion thereof, is  
4 undertaken by a tenant pursuant to a contract and the tenant has a  
5 leasehold of more than 55 percent of space in the building owned or  
6 controlled by the developer, the requirement that each worker employed  
7 to perform building service work at the building be paid not less than  
8 the prevailing wage shall apply to the entire building, except as  
9 otherwise provided in subparagraph (b) of this paragraph for all  
10 residential tenants and all commercial tenants, commercial subtenants,  
11 or other commercial occupants with a leasehold interest or other  
12 occupancy right encompassing less than 5,000 square feet;

13 (8) (a) the redevelopment project shall be completed, and the  
14 developer shall be issued a certificate of occupancy for the  
15 redevelopment project facilities by the applicable enforcing agency,  
16 within four years of executing the incentive award agreement, or in the  
17 case of a redevelopment project with a project cost in excess of  
18 \$50,000,000, the incentive phase agreement corresponding to the  
19 redevelopment project; or

20 (b) in the discretion of the authority, a redevelopment project with a  
21 project cost in excess of \$50,000,000, and that is authorized to be  
22 completed in phases, may be allowed no more than six years from the  
23 date on which the incentive award agreement is executed to be issued a  
24 certificate of occupancy by the applicable enforcement agency;

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

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

32 b. In addition to the requirements set forth in subsection a. of this  
33 section, for a commercial project to qualify for an incentive award the  
34 developer shall demonstrate that the developer shall contribute capital  
35 of at least 20 percent of the total project cost, except that if a  
36 redevelopment project is located in a government-restricted  
37 municipality, the developer shall contribute capital of at least 10 percent  
38 of the total project cost.

39 c. In addition to the requirements set forth in subsection a. of this  
40 section, for a residential project or a commercial project comprised  
41 solely of a health care or health service center to qualify for an incentive  
42 award, the residential project or health care or health service center  
43 shall:

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

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

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

6 d. In addition to the requirements set forth in subsections a. and c.  
7 of this section, for a residential project consisting of newly-constructed  
8 residential units to qualify for an incentive award, the developer shall  
9 reserve at least 20 percent of the residential units constructed for  
10 occupancy by low- and moderate-income households with affordability  
11 controls as adopted by the authority, in consultation with the agency, in  
12 accordance with paragraph (2) of subsection a. of section 56 of  
13 P.L.2020, c.156 (C.34:1B-324), except that a residential project  
14 receiving a federal historic rehabilitation tax credit pursuant to section  
15 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a  
16 tax credit pursuant to the "Historic Property Reinvestment Act,"  
17 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-  
18 276), shall be exempt from the affordability controls related to bedroom  
19 distribution.

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

36 f. Beginning on the third year following the date of issuance of a  
37 final certificate of occupancy for a commercial project, and through the  
38 conclusion of the eligibility period, if the average occupancy rate of the  
39 commercial project is less than 60 percent during any applicable tax  
40 period, the developer and co-applicant shall forfeit all credits otherwise  
41 allowed for the tax period and for each subsequent tax period until the  
42 authority verifies documentation, submitted by the developer or co-  
43 applicant, demonstrating that the average occupancy rate has reached or  
44 surpassed 60 percent for the tax period. The full amount of credit shall  
45 be allowed to a developer and any co-applicant for the tax period in  
46 which the average occupancy rate reaches or surpasses 60 percent.  
47 Occupancy for the tax period shall be determined by the average of the

1 monthly occupancy for the applicable tax period. The occupancy  
2 requirement in this subsection shall not apply to residential projects.  
3 (cf: P.L.2023, c.98, s.3)  
4

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

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

13 (2) For a phased project, the incentive phase agreement shall set  
14 forth, for each phase of the project and for the total project, the capital  
15 investment requirements and the time periods in which each phase of  
16 the project shall be commenced and completed. The awarding of tax  
17 credits shall be conditioned on the developer's compliance with the  
18 requirements of the agreement. A redevelopment project may be  
19 completed in phases in accordance with rules adopted by the authority  
20 if the redevelopment project has a total project cost in excess of  
21 \$50,000,000.

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

1 assign the incentive award to another applicant. The incentive award  
2 agreement may also provide for a verification of the financing gap at the  
3 time the developer provides executed financing commitments to the  
4 authority and a verification of the developer's projected cash flow at the  
5 time of certification that the project is completed.

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

34 d. The incentive award agreement shall include a requirement that  
35 the authority confirm with the Department of Environmental Protection,  
36 the Department of Labor and Workforce Development, and the  
37 Department of the Treasury that the developer is in substantial good  
38 standing with the respective department, or the developer has entered  
39 into an agreement with the respective department that includes a  
40 practical corrective action for the developer, and the developer shall  
41 confirm that each contractor or subcontractor performing work at the  
42 redevelopment project: (1) is registered as required by "The Public  
43 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et  
44 seq.); (2) has not been debarred, suspended, or disqualified by the  
45 Department of Labor and Workforce Development from engaging in or  
46 bidding on Public Works Contracts in the State, or been debarred,  
47 suspended, or disqualified by a federal agency from engaging in  
48 federally-funded construction projects or bidding on federal contracting



1 opportunities; and (3) possesses a tax clearance certificate issued by the  
2 Division of Taxation in the Department of the Treasury. The incentive  
3 award agreement shall also include a provision that the developer shall  
4 forfeit the incentive award in any year in which the developer is neither  
5 in substantial good standing with each department nor has entered into  
6 a practical corrective action. The incentive award agreement shall also  
7 require a developer to engage in on-site consultations with the Division  
8 of Workplace Safety and Health in the Department of Health.

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

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

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

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

1 (2) The community benefits agreement shall provide for the creation  
2 of a community advisory committee to oversee the implementation of  
3 the agreement, monitor successes, ensure compliance with the terms of  
4 the agreement, and produce an annual public report. The community  
5 advisory committee created pursuant to this paragraph shall be  
6 comprised of representatives of diverse community groups and residents  
7 of the county or municipality in which the redevelopment project is  
8 located.

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

19 (4) Notwithstanding any requirement of this subsection to the  
20 contrary, a developer shall be considered to have met the requirements  
21 of a community benefits agreement **[pursuant to this subsection], and**  
22 the requirements of paragraphs (2) and (3) of this subsection shall not  
23 apply, if the developer submits to the authority:

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

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

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

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

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

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

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

21

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

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

31 (1) 80 percent of the total project cost for a redevelopment project  
32 that is located in a government-restricted municipality;

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

39 (3) 50 percent of the total project cost for any other redevelopment  
40 project.

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

43 (1) \$120,000,000 per redevelopment project or phase for a  
44 redevelopment project that is located in a government-restricted  
45 municipality;

46 (2) \$90,000,000 per redevelopment project or phase for a  
47 redevelopment project that is allowed a tax credit under paragraph (2)  
48 of subsection a. of this section; and

1 (3) \$60,000,000 for any other redevelopment project or phase.

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

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

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

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

19 d. Except for a redevelopment project that is located in a  
20 government restricted municipality:

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

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

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

32  
33 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to  
34 read as follows:

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

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

6 (2) Upon receipt by the director of the certificate of compliance,  
7 the director shall allow the developer a credit against the tax imposed  
8 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer  
9 shall apply the credit awarded against the developer's liability under  
10 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of  
11 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of  
12 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege  
13 period **[during]** identified in the tax credit certificate which the  
14 director **[allows]** issues to the developer **[a tax credit]** pursuant to  
15 this subsection, or within the three successive tax periods  
16 immediately following the tax period in which the tax credit  
17 certificate is received by the developer. A developer may carry  
18 forward an unused credit resulting from the limitations of paragraph  
19 (3) of this subsection, if necessary, for use in the seven privilege  
20 periods next following the privilege period for which the credits are  
21 **[awarded]** applied. Credits granted to a partnership shall be passed  
22 through to the partners, members, or owners, respectively, pro-rata,  
23 or pursuant to an executed agreement among the partners, members,  
24 or owners documenting an alternate distribution method provided to  
25 the director accompanied by any additional information as the  
26 director may prescribe.

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

37  
38 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to  
39 read as follows:

40 63. a. A developer may apply to the director and the chief  
41 executive officer of the authority for a tax credit transfer certificate,  
42 covering one or more years, in lieu of the developer being allowed  
43 any amount of the credit against the tax liability of the developer.  
44 The tax credit transfer certificate, upon receipt thereof by the  
45 developer from the director and the chief executive officer of the  
46 authority, may be sold or assigned, in full or in part in an amount not  
47 less than \$25,000, in the privilege period during which the developer  
48 receives the tax credit transfer certificate from the director, to another

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

8 b. The developer shall not sell or assign, including a collateral  
9 assignment, a tax credit transfer certificate allowed under this section  
10 for consideration received by the developer of less than 85 percent of  
11 the transferred credit amount before considering any further  
12 discounting to present value which shall be permitted, except a  
13 developer of a residential project consisting of newly-constructed  
14 residential units may assign a tax credit transfer certificate for  
15 consideration of less than 85 percent subject to the submission of a  
16 plan to the authority and the agency to use the proceeds derived from  
17 the assignment of tax credits to complete the residential project,  
18 except a developer of a residential project consisting of newly-  
19 constructed residential units that has received federal low income  
20 housing tax credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax  
21 credit transfer certificate for consideration of no less than 65 percent  
22 subject to the submission of a plan to the authority and the New  
23 Jersey Housing and Mortgage Finance Agency to use the proceeds  
24 derived from the assignment of tax credits to complete the residential  
25 project. The tax credit transfer certificate issued to a developer by  
26 the director shall be subject to any limitations and conditions  
27 imposed on the application of State tax credits pursuant to sections  
28 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335)  
29 and any other terms and conditions that the director may prescribe;  
30 provided, however, that the holder of a tax credit certificate may  
31 transfer all or part of the tax credit amount, within the three  
32 successive tax periods immediately following the tax period in which  
33 the tax credit certificate is received by the developer, on or after the  
34 date of issuance of the tax credit transfer certificate, for use by the  
35 transferee in the tax period for which it was issued or within the three  
36 successive tax periods immediately following the tax period in which  
37 the tax credit transfer certificate is received by the transferee, and the  
38 transferee may carry forward all or part of the tax credit amount in  
39 any of the next five successive tax periods after the tax period for  
40 which it was used. Notwithstanding any provision of this section to  
41 the contrary, the amount of tax credits that may be claimed by the  
42 transferee in any tax period shall not exceed the total tax credit  
43 amount divided by the duration of the eligibility period in years.

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

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

- 4 (1) the name of the transferor;  
5 (2) the name of the transferee;  
6 (3) the value of the tax credit transfer certificate; and  
7 (4) the consideration received by the transferor.

8 e. When a tax credit certificate is issued to a developer after the  
9 tax period in which all or part of the tax credits may be used by the  
10 developer or a holder of the credit transfer certificate, the developer  
11 or transferee shall be allowed to use the tax credit for the same tax  
12 period specified in the tax credit certificate, or within the three  
13 successive tax periods immediately following the tax period in which  
14 the certificate is received by the developer or transferee. In this  
15 circumstance, the developer or transferee shall not be required to  
16 amend its tax return for the tax period in which it applies the tax  
17 credit or for a tax period preceding the tax period in which the tax  
18 credit is applied.

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

20  
21 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to read  
22 as follows:

23 65. a. As used in this section, "transformative project" means a  
24 redevelopment project: that has a project financing gap; that has a total  
25 project cost of at least \$150,000,000; that, subject to the provisions of  
26 subsection h. of this section, includes 200,000 or more square feet of  
27 new or substantially renovated industrial, commercial, or residential  
28 space for a project located in a government-restricted municipality, that  
29 includes 250,000 or more square feet of film studios, professional  
30 stages, television studios, recording studios, screening rooms, or other  
31 infrastructure for film production, that includes 300,000 or more square  
32 feet of new or substantially renovated industrial, commercial, or  
33 residential space for a project located in an enhanced area, or that  
34 includes 500,000 or more square feet of new or substantially renovated  
35 industrial, commercial, or residential space for any other project; and,  
36 for a commercial project, that is of special economic importance as  
37 measured by the level of new jobs, new capital investment,  
38 opportunities to leverage leadership in a high-priority targeted industry,  
39 or other state priorities as determined by the authority pursuant to rules  
40 and regulations promulgated to implement this section.  
41 Notwithstanding the provisions of subsection b. of section 14 of  
42 P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications  
43 submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-  
44 335.1 et al.), if the redevelopment project is located entirely on land  
45 designated by the Department of Environmental Protection as a  
46 brownfield development area pursuant to section 7 of P.L.2005, c.223  
47 (C.58:10B-25.1), and the project cost of the redevelopment project  
48 includes at least \$15,000,000 in environmental remediation costs, the

1 redevelopment project shall constitute a project of special economic  
2 importance. A transformative project may be completed in phases,  
3 which phases may be determined by the authority based on factors such  
4 as written architectural plans and specifications completed before or  
5 during the physical work, certificates of occupancy, or financial and  
6 operational plans. The criteria developed by the authority shall include,  
7 but shall not be limited to:

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

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

13 (b) for a residential project containing ~~less~~ fewer than 700 new  
14 residential units, the construction of 200 or more new residential units  
15 if the project is located in a government-restricted municipality, 300 or  
16 more residential units if the project is located in an enhanced area, or  
17 400 or more residential units for all other mixed-use projects; or

18 (c) for a residential project containing ~~less~~ fewer than 700 new  
19 residential units, the construction of ~~50,000~~ 20,000 square feet or  
20 more of commercial space, which commercial space may include retail  
21 space; and

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

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

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

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

44 (2) (a) For transformative projects completed in phases, the  
45 developer shall enter into a transformative phase agreement with the  
46 authority.

47 (b) As used in this subsection, "transformative phase agreement"  
48 shall mean a sub-agreement of the incentive award agreement that



1 governs the timing, capital investment, and other applicable details of  
2 the respective phase of a phased project.

3 (3) Notwithstanding the provisions of section 57 of P.L.2020, c.156  
4 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et  
5 al.) to the contrary, a transformative project shall be completed, and the  
6 developer shall be issued a certificate of occupancy for the  
7 transformative project facilities by the applicable enforcing agency,  
8 within five years of executing the incentive award agreement, except  
9 that the authority may, in its discretion, extend this deadline by up to  
10 one additional year. For transformative projects completed in phases,  
11 the transformative project shall be completed, and the developer shall  
12 be issued certificates of occupancy for all phases of the transformative  
13 project facilities by the applicable enforcing agency, within 10 years of  
14 executing either the incentive award agreement or the first  
15 transformative phase agreement corresponding to the transformative  
16 project.

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

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

39 (6) A transformative project receiving an incentive award pursuant  
40 to this section, other than a project that includes 250,000 or more square  
41 feet of film studios, professional stages, television studios, recording  
42 studios, screening rooms or other infrastructure for film production,  
43 shall be located in an incentive area, a distressed municipality, a  
44 government-restricted municipality, or an enhanced area. A  
45 transformative project receiving an incentive award pursuant to this  
46 section that includes 250,000 or more square feet of film studios,  
47 professional stages, television studios, recording studios, screening  
48 rooms or other infrastructure for film production may be located

1 anywhere in the State. The authority shall not consider an application  
2 for a transformative project unless the applicant submits with its  
3 application a letter evidencing support for the transformative project  
4 from the governing body of the municipality in which the transformative  
5 project is located.

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

41 e. The authority shall administer the credits awarded pursuant to  
42 this section in accordance with the provisions of sections 62 and 63 of  
43 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 Workforce  
46 Development, the Department of Environmental Protection, and the  
47 Department of the Treasury that the developer is in substantial good  
48 standing with the respective department, or the developer has entered

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

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

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

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

25 (c) 50 percent of the total project cost for any other transformative  
26 project;

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

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

32 h. Notwithstanding the limitations set forth in subsection g. of this  
33 section, a developer of a transformative project shall be eligible for each  
34 of the following enhancements to the total tax credit award:

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

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

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

47 i. (1) The parking component of a transformative project shall be  
48 included in the calculation of the total square footage of the project,

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

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

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

14

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

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

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

44 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-  
 45 269 et al.) to the contrary, if a completed application for a residential  
 46 project is submitted to the authority on or before the 121st calendar  
 47 day next following effective date of P.L.2023, c.98 (C.34:1B-335.1  
 48 et al.), the applicant for the residential project has received all

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

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

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

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

30

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

39

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

1 completion of the redevelopment projects. As determined by the  
2 authority, the Redevelopment Project Bridge Financing Program may  
3 consist of:

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

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

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

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

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

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

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

20 (b) a proposed repayment schedule;

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

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

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

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

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

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

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

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

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

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

45 (3) The authority may issue the loan guarantees in such amounts as  
46 it deems appropriate, subject to such terms as the authority deems  
47 reasonable and appropriate, except that each worker employed to  
48 perform construction work on the redevelopment project shall be paid

1 not less than the prevailing wage rate for the worker's craft or trade, as  
2 determined 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, c.379  
4 (C.34:11-56.58 et seq.).

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

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

22

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

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

40

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

43 89. a. The Director of the Division of Taxation in the Department  
44 of the Treasury may purchase unused tax credits awarded under a  
45 program listed in subsection b. of this section, including tax credit  
46 transfer certificates issued by the director in lieu of a tax credit  
47 allowed under such programs. The director shall not pay

1 consideration in excess of 75 percent of the credit amount to be  
2 purchased, except for a credit awarded under:

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

7 (2) the "New Jersey Aspire Program Act," sections 54 through 67  
8 (C.34:1B-222 through C.34:1B-335), as amended and supplemented,  
9 which shall be subject to the provisions of section 12 of  
10 P.L. , c. (C. ) (pending before the Legislature as this bill).

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

13 (1) the "Historic Property Reinvestment Act," sections 1 through  
14 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

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

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

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

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

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

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

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

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

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

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

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

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

38

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

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

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

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



1 (c) "Corporation" shall mean any corporation, joint-stock  
2 company or association and any business conducted by a trustee or  
3 trustees wherein interest or ownership is evidenced by a certificate of  
4 interest or ownership or similar written instrument, any other entity  
5 classified as a corporation for federal income tax purposes, and any  
6 state or federally chartered building and loan association or savings  
7 and loan association.

8 (d) "Net worth" shall mean the aggregate of the values disclosed  
9 by the books of the corporation for (1) issued and outstanding capital  
10 stock, (2) paid-in or capital surplus, (3) earned surplus and undivided  
11 profits, and (4) surplus reserves which can reasonably be expected to  
12 accrue to holders or owners of equitable shares, not including  
13 reasonable valuation reserves, such as reserves for depreciation or  
14 obsolescence or depletion. Notwithstanding the foregoing, net worth  
15 shall not include any deduction for the amount of the excess  
16 depreciation described in paragraph (2) (F) of subsection (k) of this  
17 section. The foregoing aggregate of values shall be reduced by 50%  
18 of the amount disclosed by the books of the corporation for  
19 investment in the capital stock of one or more subsidiaries, which  
20 investment is defined as ownership (1) of at least 80% of the total  
21 combined voting power of all classes of stock of the subsidiary  
22 entitled to vote and (2) of at least 80% of the total number of shares  
23 of all other classes of stock except nonvoting stock which is limited  
24 and preferred as to dividends. In the case of investment in an entity  
25 organized under the laws of a foreign country, the foregoing requisite  
26 degree of ownership shall effect a like reduction of such investment  
27 from the net worth of the taxpayer, if the foreign entity is considered  
28 a corporation for any purpose under the United States federal income  
29 tax laws, such as (but not by way of sole examples) for the purpose  
30 of supplying deemed paid foreign tax credits or for the purpose of  
31 status as a controlled foreign corporation. In calculating the net  
32 worth of a taxpayer entitled to reduction for investment in  
33 subsidiaries, the amount of liabilities of the taxpayer shall be reduced  
34 by such proportion of the liabilities as corresponds to the ratio which  
35 the excluded portion of the subsidiary values bears to the total assets  
36 of the taxpayer.

37 In the case of banking corporations which have international  
38 banking facilities as defined in subsection (n), the foregoing  
39 aggregate of values shall also be reduced by retained earnings of the  
40 international banking facility. Retained earnings means the earnings  
41 accumulated over the life of such facility and shall not include the  
42 distributive share of dividends paid and federal income taxes paid or  
43 payable during the tax year.

44 If in the opinion of the director, the corporation's books do not  
45 disclose fair valuations the director may make a reasonable  
46 determination of the net worth which, in his opinion, would reflect  
47 the fair value of the assets, exclusive of subsidiary investments as  
48 defined aforesaid, carried on the books of the corporation, in

1 accordance with sound accounting principles, and such determination  
2 shall be used as net worth for the purpose of this act.

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

4 (f) "Investment company" shall mean any corporation whose  
5 business during the period covered by its report consisted, to the  
6 extent of at least 90 percent thereof of holding, investing and  
7 reinvesting in stocks, bonds, notes, mortgages, debentures, patents,  
8 patent rights and other securities for its own account, but this shall  
9 not include any corporation which: (1) is a merchant or a dealer of  
10 stocks, bonds and other securities, regularly engaged in buying the  
11 same and selling the same to customers; or (2) had less than 90  
12 percent of its average gross assets in New Jersey, at cost, invested in  
13 stocks, bonds, debentures, mortgages, notes, patents, patent rights or  
14 other securities or consisting of cash on deposit during the period  
15 covered by its report; or (3) is a banking corporation, a savings  
16 institution, or a financial business corporation as defined in the  
17 Corporation Business Tax Act.

18 (g) "Regulated investment company" shall mean any corporation  
19 which for a period covered by its report, is registered and regulated  
20 under the Investment Company Act of 1940 (54 Stat. 789), as  
21 amended.

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

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

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

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

38 For the purpose of this act, the amount of a taxpayer's entire net  
39 income shall be deemed prima facie to be equal in amount to the  
40 taxable income, before net operating loss deduction and special  
41 deductions, which the taxpayer is required to report, or, if the  
42 taxpayer is classified as a partnership for federal tax purposes, would  
43 otherwise be required to report, to the United States Treasury  
44 Department for the purpose of computing its federal income tax,  
45 provided however, that in the determination of such entire net  
46 income,

47 (1) Entire net income shall exclude for the periods set forth in  
48 paragraph (2)(F)(i) of this subsection, any amount, except with

1 respect to qualified mass commuting vehicles as described in section  
2 168(f)(8)(D)(v) of the Internal Revenue Code as in effect  
3 immediately prior to January 1, 1984, which is included in a  
4 taxpayer's federal taxable income solely as a result of an election  
5 made pursuant to the provisions of paragraph (8) of that section.

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

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

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

14 (C) Taxes paid or accrued to the United States, a possession or  
15 territory of the United States, a state, a political subdivision thereof,  
16 or the District of Columbia, or to any foreign country, state, province,  
17 territory or subdivision thereof, on or measured by profits or income,  
18 or business presence or business activity, or the tax imposed by this  
19 act, or any tax paid or accrued with respect to subsidiary dividends  
20 excluded from entire net income as provided in paragraph (5) of  
21 subsection (k) of this section.

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

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

24 (F) (i) The amount by which depreciation reported to the United  
25 States Treasury Department for property placed in service on and  
26 after January 1, 1981, but prior to taxpayer fiscal or calendar  
27 accounting years beginning on and after the effective date of  
28 P.L.1993, c.172, for purposes of computing federal taxable income  
29 in accordance with section 168 of the Internal Revenue Code in effect  
30 after December 31, 1980, exceeds the amount of depreciation  
31 determined in accordance with the Internal Revenue Code provisions  
32 in effect prior to January 1, 1981, but only with respect to a taxpayer's  
33 accounting period ending after December 31, 1981; provided,  
34 however, that where a taxpayer's accounting period begins in 1981  
35 and ends in 1982, no modification shall be required with respect to  
36 this paragraph (F) for the report filed for such period with respect to  
37 property placed in service during that part of the accounting period  
38 which occurs in 1981. The provisions of this subparagraph shall not  
39 apply to assets placed in service prior to January 1, 1998 of a gas, gas  
40 and electric, and electric public utility that was subject to the  
41 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

42 (ii) For the periods set forth in subparagraph (F)(i) of paragraph  
43 (2) of this subsection, any amount, except with respect to qualified  
44 mass commuting vehicles as described in section 168(f)(8)(D)(v) of  
45 the Internal Revenue Code as in effect immediately prior to January  
46 1, 1984, which the taxpayer claimed as a deduction in computing  
47 federal income tax pursuant to a qualified lease agreement under  
48 paragraph (8) of that section.

1       The director shall promulgate rules and regulations necessary to  
2 carry out the provisions of this section, which rules shall provide,  
3 among others, the manner in which the remaining life of property  
4 shall be reported.

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

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

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

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

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

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

31 (J) (i) Amounts deducted for federal tax purposes pursuant to  
32 section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C.  
33 s.199, except that this exclusion shall not apply to amounts deducted  
34 pursuant to that section that are exclusively based upon domestic  
35 production gross receipts of the taxpayer which are derived only from  
36 any lease, rental, license, sale, exchange, or other disposition of  
37 qualifying production property which the taxpayer demonstrates to  
38 the satisfaction of the director was manufactured or produced by the  
39 taxpayer in whole or in significant part within the United States but  
40 not qualified production property that was grown or extracted by the  
41 taxpayer. "Manufactured or produced" as used in this paragraph shall  
42 be limited to performance of an operation or series of operations the  
43 object of which is to place items of tangible personal property in a  
44 form, composition, or character different from that in which they  
45 were acquired. The change in form, composition, or character shall  
46 be a substantial change, and result in a transformation of property  
47 into a different or substantially more usable product.

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

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

16 (ii) For privilege periods beginning after December 31, 2017 and  
17 ending on and after July 31, 2022, the interest deduction limitation in  
18 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.  
19 s.163), shall apply to a combined group as though the combined  
20 group filed a federal consolidated return; provided, however, for the  
21 purposes of applying the limitation in subsection (j) of section 163 of  
22 the Internal Revenue Code (26 U.S.C. s.163), with regard to affiliates  
23 that were members of the federal consolidated return but were not  
24 members of the combined group included on the New Jersey  
25 combined return, the combined group and the affiliates will also be  
26 treated as having filed one federal consolidated return.

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

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

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

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

41 (i) Making, arranging for, placing or carrying loans to foreign  
42 persons, provided, however, that in the case of a foreign person which  
43 is an individual, or which is a foreign branch of a domestic  
44 corporation (other than a bank), or which is a foreign corporation or  
45 foreign partnership which is controlled by one or more domestic  
46 corporations (other than banks), domestic partnerships or resident  
47 individuals, all the proceeds of the loan are for use outside of the  
48 United States;

- 1 (ii) Making or placing deposits with foreign persons which are  
2 banks or foreign branches of banks (including foreign subsidiaries)  
3 or foreign branches of the taxpayers or with other international  
4 banking facilities;
- 5 (iii) Entering into foreign exchange trading or hedging  
6 transactions related to any of the transactions described in this  
7 paragraph; or
- 8 (iv) Such other activities as an international banking facility may,  
9 from time to time, be authorized to engage in;
- 10 (C) Applicable expenses shall be any expense or other deductions  
11 attributable, directly or indirectly, to the eligible gross income  
12 described in subparagraph (B) of this paragraph.
- 13 (5) (A) (i) Entire net income shall exclude 100% of dividends  
14 which were included in computing such taxable income for federal  
15 income tax purposes, paid to the taxpayer by one or more subsidiaries  
16 owned by the taxpayer to the extent of the 80% or more ownership  
17 of investment described in subsection (d) of this section for privilege  
18 periods beginning on or before December 31, 2016.
- 19 (ii) For privilege periods beginning after December 31, 2016 and  
20 before January 1, 2019, entire net income shall exclude 95% of  
21 dividends which were included in computing such taxable income for  
22 federal income tax purposes, paid or deemed paid, to the taxpayer by  
23 one or more subsidiaries owned by the taxpayer to the extent of the  
24 80% or more ownership of investment described in subsection (d) of  
25 this section. For the purposes of calculating the tax liability owed for  
26 the paid or deemed paid dividends included in entire net income by  
27 this subparagraph (ii), the taxpayer shall use either their three-  
28 year average allocation factor for the taxpayer's 2014 through 2016  
29 tax years reported on the taxpayer's tax returns or 3.5 percent,  
30 whichever is lower.
- 31 (iii) For privilege periods beginning on and after January 1, 2019  
32 and ending before July 31, 2023, entire net income shall exclude 95%  
33 of dividends which were included in computing such taxable income  
34 for federal income tax purposes, paid or deemed paid to the taxpayer  
35 by one or more subsidiaries owned by the taxpayer to the extent of  
36 the 80% or more ownership of investment described in subsection (d)  
37 of this section.
- 38 (iv) For privilege periods ending on and after July 31, 2023, entire  
39 net income shall exclude 100 percent of dividends and deemed  
40 dividends that were included in computing such taxable income for  
41 federal income tax purposes, paid or deemed paid to the taxpayer by  
42 one or more subsidiaries owned by the taxpayer to the extent of the  
43 80 percent or more ownership of investment described in subsection  
44 (d) of this section.
- 45 (B) Entire net income shall exclude 50% of dividends which were  
46 included in computing such taxable income for federal income tax  
47 purposes, paid or deemed paid to the taxpayer by one or more  
48 subsidiaries owned by the taxpayer to the extent of 50% or more

1 ownership of investment, such ownership of investment calculated in  
2 the same manner as the 80% or more of ownership of investment is  
3 calculated as described in subsection (d) of this section.

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

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

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

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

27 (i) The exclusion provided by this paragraph (5) shall be  
28 deducted from entire net income after the State modifications that  
29 increase federal entire net income but before the other State  
30 modifications that reduce entire net income and before the allocation  
31 of entire net income to this State.

32 (ii) In computing the total amount of the dividends and deemed  
33 dividends excluded by this paragraph (5) for privilege periods ending  
34 on and after July 31, 2023, the amount of dividends and deemed  
35 dividends excluded shall be reduced by the amount of the expenses  
36 and deductions that are attributable to those dividends and deemed  
37 dividends. For purposes of this paragraph (5), expenses and  
38 deductions related to dividends shall equal five percent of all  
39 dividends and deemed dividends received by a taxpayer during an  
40 income year.

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

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



1 (B) Net operating loss carryover. A net operating loss for any  
2 privilege period ending after June 30, 1984 shall be a net operating  
3 loss carryover to each of the seven privilege periods following the  
4 period of the loss and a net operating loss for any privilege period  
5 ending after June 30, 2009 shall be a net operating loss carryover to  
6 each of the twenty privilege periods following the period of the loss.  
7 The entire amount of the net operating loss for any privilege period  
8 (the "loss period") shall be carried to the earliest of the privilege  
9 periods to which the loss may be carried. The portion of the loss  
10 which shall be carried to each of the other privilege periods shall be  
11 the excess, if any, of the amount of the loss over the sum of the entire  
12 net income, computed without the exclusions permitted in paragraphs  
13 (4) and (5) of this subsection or the net operating loss deduction  
14 provided by subparagraph (A) of this paragraph, for each of the prior  
15 privilege periods to which the loss may be carried.

16 (C) Net operating loss. For purposes of this paragraph the term  
17 "net operating loss" means the excess of the deductions over the gross  
18 income used in computing entire net income without the net  
19 operating loss deduction provided for in subparagraph (A) of this  
20 paragraph and the exclusions in paragraphs (4) and (5) of this  
21 subsection.

22 (D) Change in ownership. Where there is a change in 50% or more  
23 of the ownership of a corporation because of redemption or sale of  
24 stock and the corporation changes the trade or business giving rise to  
25 the loss, no net operating loss sustained before the changes may be  
26 carried over to be deducted from income earned after such changes.  
27 In addition where the facts support the premise that the corporation  
28 was acquired under any circumstances for the primary purpose of the  
29 use of its net operating loss carryover, the director may disallow the  
30 carryover.

31 (E) Notwithstanding the provisions of this paragraph (6) of  
32 subsection (k) of this section to the contrary, for privilege periods  
33 beginning during calendar year 2002 and calendar year 2003, no  
34 deduction for any net operating loss carryover shall be allowed and  
35 for privilege periods beginning during calendar year 2004 and  
36 calendar year 2005, there shall be allowed as a deduction for the  
37 privilege period so much of the net operating loss carryover as  
38 reduces entire net income otherwise calculated by 50%. If and only  
39 to the extent that any net operating loss carryover deduction is  
40 disallowed by reason of this subparagraph (E), the date on which the  
41 amount of the disallowed net operating loss carryover deduction  
42 would otherwise expire shall be extended by a period equal to the  
43 period for which application of the net operating loss was disallowed  
44 by this subparagraph.

45 Provided, that this subparagraph (E) shall not restrict the surrender  
46 or acquisition of corporation business tax benefit certificates  
47 pursuant to section 1 of P.L.1997, c.334 (C.34:1B-7.42a) and shall

1 not restrict the application of corporation business tax benefit  
2 certificates pursuant to section 2 of P.L.1997, c.334 (C.54:10A-4.2).

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

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

36 (A) Depreciation for property placed in service prior to January 1,  
37 1998 shall be adjusted as follows:

38 (i) Depreciation for federal income tax purposes shall be  
39 disallowed in full.

40 (ii) A deduction shall be allowed for the New Jersey depreciation  
41 allowance. The New Jersey depreciation allowance shall be  
42 computed for the single asset account described above based on the  
43 New Jersey tax basis as adjusted above as if all assets in the single  
44 asset account were first placed in service on January 1, 1998.  
45 Depreciation shall be computed using the straight line method over a  
46 thirty-year life. A full year's depreciation shall be allowed in the  
47 initial tax year. No half-year convention shall apply. The depreciable  
48 basis of the single account shall be reduced by the adjusted federal

1 tax basis of assets sold, retired, or otherwise disposed of during any  
2 year on which gain or loss is recognized for federal income tax  
3 purposes as described in subparagraph (B) of this paragraph.

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

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

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

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

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

44 (11) No deduction shall be allowed for research and experimental  
45 expenditures, to the extent that those research and experimental  
46 expenditures are qualified research expenses or basic research  
47 payments for which an amount of credit is claimed pursuant to  
48 section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research

1 and experimental expenditures are also used to compute a federal  
2 credit claimed pursuant to section 41 of the federal Internal Revenue  
3 Code of 1986, 26 U.S.C. s.41; provided, however, for privilege  
4 periods beginning on and after January 1, 2022, a deduction for  
5 research and experimental expenditures shall be allowed during the  
6 same privilege period for which a credit is claimed pursuant to  
7 section 1 of P.L.1993, c.175 (C.54:10A-5.24), notwithstanding the  
8 timing schedule required by the federal Internal Revenue Code of  
9 1986, 26 U.S.C. s.174, for the deduction of specified research and  
10 experimental expenditures.

11 (12)(A) Notwithstanding the provisions of subsection (k) of  
12 section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C.  
13 s.168, subsection (b) of section 1400L of the federal Internal Revenue  
14 Code of 1986, 26 U.S.C. s.1400L, or any other federal law, for  
15 property acquired after September 10, 2001, the depreciation  
16 deduction otherwise allowed pursuant to section 167 of the federal  
17 Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined  
18 pursuant to the provisions of the federal Internal Revenue Code of  
19 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001.

20 (B) The director shall prescribe the rules and regulations  
21 necessary to carry out the provisions of this paragraph, including,  
22 among others, those for determining the adjusted basis of the  
23 acquired property for the purposes of the Corporation Business Tax  
24 Act (1945), P.L.1945, c.162.

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

32 (B) The director shall prescribe the rules and regulations  
33 necessary to carry out the provisions of this paragraph, including,  
34 among others, those for determining the adjusted basis of the  
35 acquired property for the purposes of the Corporation Business Tax  
36 Act (1945), P.L.1945, c.162.

37 (14)Notwithstanding the provisions of subsection (i) of section  
38 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),  
39 for privilege periods beginning after December 31, 2008 and before  
40 January 1, 2011, entire net income shall include the amount of  
41 discharge of indebtedness income excluded for federal income tax  
42 purposes pursuant to subsection (i) of section 108 of the federal  
43 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege  
44 periods beginning on or after January 1, 2014 and before January 1,  
45 2019, entire net income shall exclude the amount of discharge of  
46 indebtedness income included for federal income tax purposes,  
47 pursuant to subsection (i) of section 108 of the federal Internal  
48 Revenue Code of 1986 (26 U.S.C. s.108).

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

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

9 (B) For purposes of this paragraph, "net deferred tax liability"  
10 means deferred tax liabilities that exceed the deferred tax assets of  
11 the combined group, as computed in accordance with generally  
12 accepted accounting principles, and "net deferred tax asset" means  
13 that deferred tax assets exceed the deferred tax liabilities of the  
14 combined group, as computed in accordance with generally accepted  
15 accounting principles.

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

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

27 (E) (i) Beginning with the combined group's first privilege period  
28 on or after January 1 of the fifth year after the effective date of  
29 P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be  
30 entitled to a deduction from combined group entire net income equal  
31 to one-tenth of the amount necessary to offset the increase in the net  
32 deferred tax liability or decrease in the net deferred tax asset, or  
33 aggregate change from a net deferred tax asset to a net deferred tax  
34 liability, according to the schedule provided by subsubparagraphs (ii)  
35 and (iii) of this subparagraph (E). Such increase in the net deferred  
36 tax liability or decrease in the net deferred tax asset or the aggregate  
37 change from a net deferred tax asset to a net deferred tax liability  
38 shall be computed based on the change that would result from the  
39 imposition of the unitary reporting requirements under sections 1 and  
40 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6  
41 to C.54:10A-4.11) but for the deduction provided under this  
42 paragraph as of the effective date of this paragraph.

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

1 deferred tax liability or decrease in the net deferred tax asset or the  
2 aggregate change from a net deferred tax asset to a net deferred tax  
3 liability shall be computed based on the change that would result  
4 from the imposition of the unitary reporting requirements under  
5 sections 1 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and  
6 C.54:10A-4.6 to C.54:10A-4.11) but for the deduction provided  
7 under this paragraph as of the effective date of this paragraph.

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

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

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

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

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

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

44 (H) Any combined group intending to claim a deduction under  
45 this paragraph shall file a statement with the director on or before  
46 July 1 of the year subsequent to the first privilege period for which a  
47 combined return is required. Such statement shall specify the total  
48 amount of the deduction which the combined group claims on such

1 form and in such manner as prescribed by the director. No deduction  
2 shall be allowed under this paragraph for any privilege period except  
3 to the extent claimed on such timely filed statement in accordance  
4 with this paragraph.

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

12 (B) In the case of a taxpayer that is a cannabis licensee, there shall  
13 be allowed as a deduction an amount equal to any expenditure that  
14 would qualify as a specified research or experimental expenditure  
15 pursuant to section 174 of the Internal Revenue Code but is  
16 disallowed as a deduction for federal tax purposes because cannabis  
17 is a controlled substance under federal law. Any expenditure that is  
18 claimed as a deduction pursuant to this subparagraph may also be  
19 claimed as a qualified research expense for purposes of the credit  
20 allowed pursuant to section 1 of P.L.1993, 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 corporation  
26 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), entire  
30 net income shall not include an item of income or loss excluded or  
31 exempted from federal taxable income under the terms of the treaty,  
32 and no other deduction, exclusion, or elimination shall be permitted  
33 for an item of income or loss excluded by this paragraph.

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

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

47 (m) "Financial business corporation" shall mean any corporate  
48 enterprise which is (1) in substantial competition with the business

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

35 (n) "International banking facility" shall mean a set of asset and  
36 liability accounts segregated on the books and records of a depository  
37 institution, United States branch or agency of a foreign bank, or an  
38 Edge or Agreement Corporation that includes only international  
39 banking facility time deposits and international banking facility  
40 extensions of credit as such terms are defined in section 204.8(a)(2)  
41 and section 204.8(a)(3) of Regulation D of the board of governors of  
42 the Federal Reserve System, 12 CFR Part 204, effective December 3,  
43 1981. In the event that the United States enacts a law, or the board of  
44 governors of the Federal Reserve System adopts a regulation which  
45 amends the present definition of international banking facility or of  
46 such facilities' time deposits or extensions of credit, the  
47 Commissioner of Banking and Insurance shall forthwith adopt  
48 regulations defining such terms in the same manner as such terms are



1 set forth in the laws of the United States or the regulations of the  
2 board of governors of the Federal Reserve System. The regulations  
3 of the Commissioner of Banking and Insurance shall thereafter  
4 provide the applicable definitions.

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

8 (p) "New Jersey S corporation" means a taxpayer that has made a  
9 valid election to be an S corporation for federal tax purposes, and that  
10 has not made a valid election pursuant to subsection d. of section 20  
11 of P.L.2022, c.133 (C.54:10A-5.22).

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

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

26 (s) "Savings institution" means a state or federally chartered  
27 building and loan association, savings and loan association, or  
28 savings bank.

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

31 (u) "Prior net operating loss conversion carryover" means a net  
32 operating loss incurred in a privilege period ending prior to July 31,  
33 2019 and converted from a pre-allocation net operating loss to a post-  
34 allocation net operating loss as follows:

35 (1) As used in this subsection:

36 "Base year" means the last privilege period ending prior to July  
37 31, 2019.

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

43 "UNOL" means the unabsorbed portion of net operating loss as  
44 calculated under paragraph (6) of subsection (k) of this section as  
45 such paragraph was in effect for the last privilege period ending prior  
46 to July 31, 2019, that was not deductible in previous privilege periods  
47 and was eligible for carryover on the last day of the base year subject

1 to the limitations for deduction under such subsection, including any  
2 net operating loss sustained by the taxpayer during the base year.

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

5 (A) The taxpayer shall first calculate the tax value of its UNOL  
6 for the base year and for each preceding privilege period for which  
7 there is a UNOL. The value of the UNOL for each privilege period is  
8 equal to the product of (I) the amount of the taxpayer's UNOL for a  
9 privilege period, and (II) the taxpayer's base year BAF. This result  
10 shall equal the taxpayer's prior net operating loss conversion  
11 carryover.

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

34 (C) The prior net operating loss conversion carryover computed  
35 under this subsection shall be applied against the entire net income  
36 allocated to this State before the net operating loss carryover  
37 computed under subsection (v) of this section.

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

41 (1) Net operating loss carryover. A net operating loss for any  
42 privilege period ending on or after July 31, 2019, shall be a net  
43 operating loss carryover to each of the twenty privilege periods  
44 following the period of the loss. The entire amount of the net  
45 operating loss for any privilege period shall be carried to the earliest  
46 of the privilege periods to which the loss may be carried. For  
47 privilege periods ending before July 31, 2023, the portion of the loss  
48 which shall be carried to each of the other privilege periods shall be

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

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

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

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

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

44 (w) "Taxable net income" means entire net income allocated to  
45 this State as calculated pursuant to sections 6 through 8 of P.L.1945,  
46 c.162 (C.54:10A-6 through 54:10A-8) as modified by subtracting any  
47 prior net operating loss conversion carryforward calculated pursuant  
48 to subsection (u) of this section, and any net operating loss calculated

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

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

33 For purposes of this subsection:

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

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

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

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

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

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

13 (4) 50% or less of whose gross receipts for the privilege period  
14 consist of premiums from arrangements that constitute insurance for  
15 federal income tax purposes.

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

22 For purposes of this definition:

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

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

38 "Premiums" includes consideration for annuity contracts and  
39 excludes any part of the consideration for insurance, reinsurance, or  
40 annuity contracts that do not provide bona fide insurance,  
41 reinsurance, or annuity benefits.

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

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

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

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

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

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

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

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

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

42 A New Jersey S corporation shall only be included as a taxable  
43 member of a combined group filing a New Jersey combined return if  
44 the New Jersey S Corporation elects to be included as a member and  
45 taxed at the same rate as the other members of the combined group.  
46 A New Jersey S corporation that does not elect to be included shall  
47 be excluded as a member of the combined return and shall file a  
48 separate return.

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

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

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

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

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

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

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

42 As used in this subsection:

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



1 directly or indirectly, 75 percent or more of the voting power or value  
2 of the beneficial interests of shares of the trust.

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

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

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

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

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

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

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

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

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

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

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

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

30

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

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

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

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

46 (1) taxes based on income;

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

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

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

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

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

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

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

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

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

32 (i) A statutory merger or consolidation;

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

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

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

7 (v) A recapitalization;

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

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

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

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

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

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

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

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

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

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

15 g. Gambling winnings.

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

17 i. Income in respect of a decedent.

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

35 k. Distributive share of partnership income, excluding the gain  
36 or income derived from the sale or assignment of a tax credit transfer  
37 certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248)  
38 **【and】**, section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New  
39 Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-  
40 269 et al.), as amended and supplemented, from any sale or  
41 assignment of a tax credit issued pursuant to an award of tax credits  
42 approved by the New Jersey Economic Development Authority  
43 **【prior to July 1, 2018】**, regardless of when such sale or assignment  
44 occurs.

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

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

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

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

8 p. Net pro rata share of S corporation income, excluding the gain  
9 or income derived from the sale or assignment of a tax credit transfer  
10 certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248)  
11 **[and]**, section 10 P.L.2014, c.63 (C.34:1B-251), or the "New Jersey  
12 Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et  
13 al.), as amended and supplemented, from any sale or assignment of a  
14 tax credit issued pursuant to an award of tax credits approved by the  
15 New Jersey Economic Development Authority **[prior to July 1,**  
16 **2018]**, regardless of when such sale or assignment occurs.

17 (cf: P.L.2018, c.131, s.8)

18  
19 16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read  
20 as follows:

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

1 financial assistance and the first payment or other provision of the  
2 assistance is received.

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



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

22 (cf: P.L.2020, c.156, s.112)

23

24 17. This act shall take effect immediately.