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BILL NO. _____

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SPONSOR	copy for introduction will be prepared on the legislative computer system. Handwritten changes will not appear in the printed bill.

AN ACT concerning State economic development policy, amending P.L.2018, c.56, and supplementing P.L.1974, c.80 (C.34:1B-1 et seq.) and Title 13 of the Revised Statutes.

“New Jersey Economic Opportunity Act of 2019”; provides for programs related to job creation and retention, property development, relief of food desert conditions, certain economic development partnerships, growth of early stage companies, and media development.

PRIME Sponsor _____ / _____

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AN ACT concerning State economic development policy, amending P.L.2018, c.56, and supplementing P.L.1974, c.80 (C.34:1B-1 et seq.) and Title 13 of the Revised Statutes.

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

1. (New section) P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "New Jersey Economic Opportunity Act of 2019."

2. (New section) Sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "Grow New Jersey 3.0 Act."

3. (New section) The Legislature finds and declares that:

a. The original Grow New Jersey Program served as a powerful job creation and retention incentive program that strengthened New Jersey's competitive edge in the competitive global marketplace and was associated with significant numbers of retained and created jobs.

b. The Grow New Jersey Program helped New Jersey's economic recovery from the depths of a national and global economic recession.

c. The current economic climate allows for more targeted incentive programs to focus economic development strategy on sought-after industries such as sciences and technology, while continuing to offer enhanced incentives to attract jobs in our poorest municipalities and produce affordable and workforce housing to create communities that attract workers to reside in those municipalities.

d. The New Jersey Economic Development Authority is now prohibited from accepting new applications for the award of incentives under the Grow New Jersey Program, while companies typically evaluate location and capital investment decisions on a 10-year, or longer, time horizon; and;

e. High costs of living and doing business place New Jersey in a non-competitive position relative to other states, providing the New Jersey Economic Development Authority with tools to attract and retain businesses is necessary to ensure the economic vitality of the State and its diverse communities.

f. If New Jersey fails to remain a competitive option for business location through adequate tax incentive programs, the State's economy and its budget will be subject to long-term damage.

g. Companies at risk of leaving New Jersey have utilized the Grow New Jersey Program to justify the business decision to remain in New Jersey and retain thousands of jobs in this State.

h. To induce targeted businesses to locate in some of New Jersey's poorest municipalities where new capital investment is most

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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needed, whether due to high crime rates, less than adequate public schools, or lack of affordable housing, it is necessary for the State to offer enhanced incentives that do more than close or narrow the cost gap.

4. (New section) As used in sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

"Affordable housing" includes low-income housing and moderate-income housing.

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

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

"Business" means an applicant proposing to own or lease premises in a qualified business facility that is:

a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5);

a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

a partnership;

an S corporation;

a limited liability company; or

a non-profit corporation.

If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member

organizations, the lease shall be treated as a lease to an affiliate or affiliates.

A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

"Capital investment" in a qualified business facility means expenses by a business or any affiliate of the business incurred after application for:

- a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property;
- b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or
- c. any development, redevelopment, and relocation costs, including, but not limited to, site acquisition if made within 24 months of application to the authority, engineering, legal, accounting, and other professional services required; and relocation, environmental remediation, and infrastructure improvements for the project area, including, but not limited to, on- and off-site utility, road, pier, wharf, bulkhead, or sidewalk construction or repair.

Additionally, if a business acquires or leases a qualified business facility, the capital investment made or acquired by the seller or owner, as the case may be, if pertaining primarily to the premises of the qualified business facility, shall be considered a capital investment by the business and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described in this definition may include any capital investment made or acquired within 24 months prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

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

"Commitment period" means the period of time that is 1.5 times the eligibility period.

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"Community benefit agreement" means an agreement, between a business and the county or municipality in which a qualified business facility is located, that details commitments by the business to provide for or support the operation of a local One Stop Career Center based upon customized job training programs for jobs at the business, the operation of an apprenticeship or training program established through a collaborative relationship with a high school, county college, or community college in this State based upon customized job training programs for jobs at the business, the development of infrastructure, the development of workforce housing, the provision of public transportation following consultation with the New Jersey Transit Corporation, the New Jersey Department of Transportation and other transportation service providers identified by the county or municipality, the provision of community greenspaces, or the provision of other community amenities within that county or municipality.

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

"Distressed, densely populated municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, with a population density of at least 20,000 persons per square mile as of the year of that the Department of Community Affairs most recently published municipal revitalization index, as of the effective date of sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Doctoral university" means a university located within New Jersey that, on the effective date of sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill), is classified as a doctoral university under the Carnegie Classification of Institutions of Higher Education's Basic Classification methodology, or is classified as an M1 master's university under the Carnegie Classification of Institutions of Higher Education's Basic Classification methodology, with an unduplicated number of students of at least 14,000, that hosts a nonprofit incubator for startup biotechnology companies, and that maintains an honors program focused on science, technology, engineering, and mathematics.

"Eligibility period" means the period in which a business may claim a tax credit under the Grow New Jersey 3.0 Program, beginning with the tax period in which the authority accepts certification of the business that it has met the capital investment and employment requirements of the Grow New Jersey 3.0 Program and extending thereafter for a term of not more than 10 years, with the term to be determined solely at the discretion of the applicant.

"Eligible position" or "full-time job" means a full-time position in a business in this State which the business has filled with a full-time employee.

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"Full-time employee" means a person:

a. (1) who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment; or

(2) who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or

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

b. who, except for purposes of the Statewide workforce, is provided by the business with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations:

the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement;

full-time employment shall include, but not be limited to, employees that have been hired by way of a labor union hiring hall or its equivalent;

35 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether or not the hours of work were performed by one or more persons.

For any project located in a New Jersey investment zone that will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, 30 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether the hours of work were performed by one or more persons, and the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the employees of the business are covered by a collective bargaining agreement.

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business,

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except that, for any project located in an aviation district, any person working as an independent contractor for the business shall be deemed a full-time employee if the business demonstrates to the authority that:

(1) the person working as an independent contractor for the business provides critical capabilities to the business in engineering, software development, technology services, or advanced manufacturing supply chain disciplines under a contractual or partnering relationship for a term of no less than three years;

(2) the person working as an independent contractor for the business:

(a) works at least 80 percent of the person's work time at a qualified business facility;

(b) works for at least 35 hours per week, or renders any other standard service generally accepted by custom or practice as full-time employment; and

(c) is provided with employee health benefits under a health benefits plan authorized pursuant to State or federal law; and

(3) the person working as an independent contractor for the business shall not be included in the business's Statewide workforce total if that person is simultaneously receiving a State economic incentive benefit for job creation or retention under any other program.

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

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill), is subject to financial restrictions imposed pursuant to the Municipal Stabilization and Recovery Act of 2016, P.L.2016, c.4 (52:27BBBB-1), as of the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

"Incentive agreement" means the contract between the business and the authority, which sets forth the terms and conditions under

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which the business shall be eligible to receive the incentives authorized pursuant to the program.

"Incentive effective date" means the date the authority issues a tax credit based on documentation submitted by a business pursuant to paragraph (1) of subsection a. of section 8 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

"Mega project" means a qualified business facility that is a corporate headquarters or constitutes a transformative project, as determined by the authority pursuant to rules and regulations promulgated to implement sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill), of a business other than a warehouse or distribution business at which the business intends to employ at least 1,000 new or retained full-time jobs and having a capital investment in excess of \$100,000,000.

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

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

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"Municipal Revitalization Index" means the 2017 index by the Office of Policy and Regulatory Affairs within the Department of Community Affairs measuring or ranking municipal distress.

"National natural landmark" means an area designated by the federal Secretary of the Interior as a national natural landmark as a result of the area's national significance to the United States according to the federal National Natural Landmark Program rules under 36 C.F.R. s.62.1 et seq.

"Net benefit" means a positive benefit to the balance of the State treasury as determined by the authority, in accordance with subsection f. of section 7 of P.L. , c. (C.) (pending before the Legislature as this bill), provided, however, that the authority's calculations shall not include potential property tax revenues that are subject to a property tax abatement and shall be based on the potential tax liability of the business without regard for potential tax losses the business were to locate in another state or leave this State.

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

"New Jersey investment zone" means a distressed, densely populated municipality or a government-restricted municipality.

"New Jersey State opportunity zone" means a federal population census tract in this state that qualified as a low-income community pursuant to 26 U.S.C. s.45D, and was eligible to be nominated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"New Jersey State opportunity zone municipality" means a municipality in which a New Jersey State opportunity zone is located.

"One Stop Career Center" means any of the facilities established, sponsored or designated by the State, a political subdivision of the State or a Workforce Investment Board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other similar facility as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities, and "qualified staff" means staff whose qualifications meet standards set by regulations adopted by the Commissioner of Labor and Workforce Development.

"Other eligible area" means any area of the State other than a New Jersey State opportunity zone municipality that the authority determines to be in need of program incentives to support the economic vitality of the community, based on metrics and regulations promulgated by the authority.

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

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

"Program" means the "Grow New Jersey 3.0 Program" established pursuant to section 5 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project.

"Public research university" means a public research university as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

"Qualified business facility" means any building, complex of buildings, or structural components of buildings, and all machinery and equipment located within a New Jersey State opportunity zone municipality or any other eligible area, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location.

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country, or eliminated. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business. For the purposes of the certifications and annual reports required in the incentive agreement pursuant to subsection e. of section 6 of P.L. , c. (C.) (pending before the Legislature as this bill), to the extent an eligible position that was the basis of the award no longer exists, a business shall include as a retained full-time job a new eligible position that is filled by a full-time employee provided that the position is included in the order of date of hire and is not the basis for any other incentive award. For a project located in a New Jersey investment zone, "retained full-time job" shall include any employee previously employed in New Jersey and transferred to the new location in the New Jersey investment zone.

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

"Targeted industry" means any industry identified by the authority including initially, a transportation, manufacturing, defense, energy, logistics, life sciences, technology, health, and finance business, but excluding a primarily warehouse or distribution business.

"Technology startup company" means a for-profit business that has been in operation fewer than five years and is developing or possesses a proprietary technology or business method of a high-technology or life science-related product, process, or service which the business intends to move to commercialization.

"Transit-oriented development" means a qualified business facility located within a 1/2-mile radius, or one-mile radius for projects located in a New Jersey investment zone, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority

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Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

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

5. (New section)a. The Grow New Jersey 3.0 Assistance Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority and shall be administered by the authority. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated outside of the State. To implement this purpose, the program may provide tax credits to eligible businesses for an eligibility period not to exceed 10 years.

To be eligible for any tax credits pursuant to sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill), a business's chief executive officer or equivalent officer shall demonstrate to the authority and certify, at the time of application, that:

(1) the business, expressly including its landlord or seller, will make, acquire, or lease a capital investment equal to, or greater than, the applicable amount set forth in subsection b. of this section at a qualified business facility at which it will create or retain full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section;

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

(3) the capital investment resultant from the award of tax credits and the resultant creation and retention of full-time jobs for a project in an eligible area other than a New Jersey State opportunity zone municipality will yield a net positive benefit to the State equaling at least 130 percent of the requested tax credit allocation amount, which determination is calculated prior to taking into account the value of the requested tax credit and shall be based on the benefits generated during the commitment period, except that:

(a) for a project located in a New Jersey State opportunity zone municipality, the determination shall be based on the benefits generated during the period of time from approval through the end of the commitment period, as determined by the authority, and shall equal at least 120 percent of the requested tax credit allocation amount, and

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

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

With respect to the provisions of paragraph (3) of this subsection, in the case of a project located in a New Jersey investment zone, the authority, in its discretion, may award bonuses in its net positive benefit calculation.

b. For all projects approved after the effective date of sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill) the minimum capital investment required to be eligible under this program shall be as follows:

(1) for the rehabilitation, improvement, fit-out, or retrofit of an existing industrial, warehousing, logistics, or research and development premises for continued similar use by the business in at least 51 percent of the gross leasable area of the premises, a minimum investment of \$20 per square foot of gross leasable area;

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

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

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

The minimum capital investment required by this subsection shall be reduced by one-third for projects located in a New Jersey investment zone.

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

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

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

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

The minimum number of new or retained full-time jobs required by this subsection shall be reduced by one-quarter for projects located in a New Jersey investment zone.

d. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating: (1) any existing full-time jobs that are at risk of leaving the State or being eliminated; (2) that any projected creation or retention, as applicable, of new full-time jobs would not occur but for the provision of tax credits under the program; and (3) that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, provided however, that in satisfaction of the provisions of (1) and (2) of this subsection, the certification with respect to a project in a New Jersey investment zone shall indicate that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a New Jersey investment zone. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, and as to the date or dates at which the authority expects that those jobs would actually leave the State, or, with respect to projects located in a g New Jersey investment zone, the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a

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capital investment and locate in a New Jersey investment zone before a business may be awarded any tax credits under this section.

e. If requested by the authority, then as a condition of initial or ongoing eligibility for an award, the business's chief executive officer, or equivalent officer or a senior executive designated by the chief executive officer, shall appear in person at an authority board meeting to answer questions posed by members of the authority's board in an executive session.

f. A project that consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. For a qualified business facility that is a mixed-use project that includes retail facilities and that is located in a New Jersey investment zone, retail facilities in an amount up to 7.5 percent of the mixed-use project may be included in the mixed-use project application for a grant of tax credits along with the non-retail facilities, and that application may include in the aggregate the pro-rata number of full-time employees employed by any number of tenants or other occupants of the included retail facilities. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits.

g. Nothing shall preclude a business from applying for tax credits under the program for more than one project pursuant to one or more applications.

h. A business shall not be required to purchase pinelands development credits under the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive management plan, or any other rule or regulation adopted pursuant to that act in connection with any approval or relief obtained related to a qualified business facility located in an aviation district on or after the effective date of sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill), except if seeking to develop in permanently protected open space pursuant to the "Pinelands Protection Act."

6. (New section) The authority shall require an eligible business to enter into an incentive agreement prior to the issuance of tax credits. The incentive agreement shall include, but shall not be limited to, the following:

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

b. The eligibility period of the tax credits, including the first year for which the tax credits may be claimed.

c. Personnel information that will enable the authority to administer the program.

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d. A requirement that the applicant maintain the project at a location in New Jersey for the commitment period, with at least the minimum number of full-time employees as required by this program, and a provision to permit the authority to recapture all or part of any tax credits awarded, at its discretion, if the business does not remain in compliance with this provision for the required term, and in the instance of the business terminating an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill), such permitted recapture may be calculated to recognize the period of time that the business was in compliance prior to termination.

e. A method for the chief executive officer to certify that the business has met the capital investment and employment requirements of the program pursuant to paragraph (1) of subsection a. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill) and to annually recertify and to submit a report to the authority containing information determined necessary by the authority, including, but not limited to, the information required pursuant to subsection d. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill) and number of full-time employees for which the tax credits are to be made.

f. A provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary.

g. A provision which permits the authority to amend the agreement.

h. A provision establishing the conditions under which the agreement may be terminated.

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

7. (New section) a. The total amount of the tax credit for an eligible business for each new or retained full-time job shall be as set forth in subsections b. through f. of this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period. Notwithstanding any other provisions of sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill), a business may assign its ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and

completing development and redevelopment projects in a New Jersey investment zone. The non-profit organization may make an application on behalf of a business which meets the requirements for the tax credit, or a group of non-qualifying businesses or positions, located at a qualified business facility, that shall be considered a unified project for the purposes of the incentives provided under this section.

b. The base amount of the tax credit for each new or retained full-time job shall be as follows:

(1) (a) for a qualified business facility located within a New Jersey investment zone, or which is a mega project, \$5,000 per year;

(b) for a qualified business facility used by an eligible business in a targeted industry to conduct a collaborative research relationship with a doctoral university, \$5,000 per year;

(2) for a project in a New Jersey State opportunity zone municipality, \$2,500 per year; and

(3) for a qualified business facility located within any other eligible area but not qualifying under paragraph (1) or paragraph (2) of this subsection, \$500 per year.

c. In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased if the qualified business facility meets any of the following priority criteria or other additional or replacement criteria determined by the authority from time to time in response to evolving economic or market conditions:

(1) for a qualified business facility located in a mixed-use development that incorporates residential units with at least 20 percent of residential units dedicated to affordable housing and 10 percent of residential units dedicated to workforce housing on site to accommodate at least 30 percent of the full-time employees of the business, an increase of \$500 per year;

(2) for a qualified business facility located within a transit-oriented development, an increase of \$1,500 per year;

(3) for a qualified business facility, other than a mega project or a project located within a New Jersey investment zone, at which the capital investment in industrial premises for industrial use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill), an increase of \$1,000 per year for each additional amount of investment that exceeds the minimum amount required for eligibility by 40 percent, with a maximum increase of \$3,000 per year;

(4) for a business with new full-time jobs and retained full-time jobs at the project with an average salary in excess of the existing average salary for the county in which the project is located, or, in the case of a project in a New Jersey investment zone, a business that employs full-time positions at the project with an average salary in excess of the average salary for the govern New Jersey investment zone, an increase of \$250 per year during the commitment period for

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each 35 percent by which the project's average salary levels exceeds the county or New Jersey investment zone average salary, with a maximum increase of \$1,500 per year;

(5) for a business with large numbers of new full-time jobs and retained full-time jobs during the commitment period, the increases shall be in accordance with the following schedule:

(a) if the number of new full-time jobs and retained full-time jobs is between 251 and 400, \$500 per year;

(b) if the number of new full-time jobs and retained full-time jobs is between 401 and 600, \$750 per year;

(c) if the number of new full-time jobs and retained full-time jobs is between 601 and 800, \$1000 per year;

(d) if the number of new full-time jobs and retained full-time jobs is between 801 and 1,000, \$1,250 per year;

(e) if the number of new full-time jobs and retained full-time jobs is in excess of 1,000, \$1,500 per year;

(6) for a business in a targeted industry, an increase of \$500 per year;

(7) for a mega project or a project located within a New Jersey investment zone at which the capital investment in industrial premises for industrial use by the business exceeds the minimum capital investment required for eligibility pursuant to subsection b. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill), an increase of \$1,000 per year for each additional amount of investment that exceeds the minimum amount by 40 percent, with a maximum increase of \$5,000 per year;

(8) for an eligible business that has entered into a community benefit agreement related to the qualified business facility, an increase of \$500 per year;

(9) for an eligible business that has entered into a project labor agreement with a labor organization for completion of the project, an increase of \$500 per year;

(10) for an eligible business in a targeted industry at a qualified business facility on the campus of a college or university other than a doctoral university, or at a qualified business facility within a three-mile radius of the outermost boundary of the campus of a college or university other than a doctoral university, which facility is used by the business to conduct a collaborative research relationship with the college or university, an increase of \$1,000 per year. The boundary of the campus of a college or university shall be based upon a map appearing in the college's or university's official catalog or other official publication on the effective date of sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill); and

(11) for a qualified business located in a transformative project, as defined in section 12 of P.L. , c. (C.) (pending before the Legislature as this bill), an increase of \$1,200 per year.

d. The gross amount of the tax credit for an eligible business for each new or retained full-time job shall be the sum of the base amount as set forth pursuant to subsection b. of this section and the various

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additional bonus amounts for which the business is eligible pursuant to subsection c. of this section, subject to the following limitations:

(1) for a mega project or a project in a New Jersey investment zone the gross amount for each new or retained full-time job shall not exceed \$15,000 per year;

(2) for a qualified business facility located within a census tract that is a New Jersey State opportunity zone, the gross amount for each new or retained full-time job shall not exceed \$12,000 per year;

(3) for a qualified business facility in a New Jersey State opportunity zone municipality, the gross amount for each new or retained full-time job shall not exceed \$10,500 per year; and

(4) for a qualified business facility in any other eligible area, the gross amount for each new or retained full-time job shall not exceed \$7,000 per year.

Notwithstanding anything to the contrary set forth in this subsection d. and in the provisions of subsections a. through f. of this section, but subject to the provisions of paragraph (1) of subsection f. of this section, for a project located within a New Jersey investment zone which creates 35 or more full-time jobs new to the municipality, an eligible business may opt to accept an alternate tax credit. The total alternate tax credit shall be:

(a) for a project which creates 35 or more full-time jobs new to the municipality and makes a capital investment of at least \$5,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a New Jersey investment zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$2,000,000 per year over the grant term of ten years;

(b) for a project which creates 70 or more full-time jobs new to the municipality and makes a capital investment of at least \$10,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a New Jersey investment zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$3,000,000 per year over the grant term of ten years;

(c) for a project which creates 100 or more full-time jobs new to the municipality and makes a capital investment of at least \$15,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a New Jersey investment zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$4,000,000 per year over the grant term of ten years;

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(d) for a project which creates 150 or more full-time jobs new to the municipality and makes a capital investment of at least \$20,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a New Jersey investment zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$5,000,000 per year over the grant term of ten years; or

(e) for a project which creates 250 or more full-time jobs new to the municipality and makes a capital investment of at least \$30,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a New Jersey investment zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs as defined herein at that project over the ten-year grant term.

e. After the determination by the authority of the gross amount of tax credits for which a business is eligible pursuant to subsection d. of this section, the final total tax credit amount shall be calculated as follows:

(1) for each new full-time job, the business shall be awarded tax credits equaling 100 percent of the gross amount of tax credits for each new full-time job; and

(2) for each retained full-time job, the business shall be awarded tax credits equaling the lesser of:

(a) 80 percent of the gross amount of tax credits for each retained full-time job for a project located in a New Jersey investment zone;

(b) 60 percent of the gross amount of tax credits for each retained full-time job for a project located in a New Jersey State opportunity zone municipality; or

(c) 30 percent of the gross amount of tax credits for each retained full-time job for a project located in any other eligible area.

f. (1) Notwithstanding the provisions of subsections a. through e. of this section, for each application approved by the authority's board, the amount of tax credits available to be applied by the business annually shall not exceed:

(a) \$35,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in a New Jersey investment zone;

(b) \$30,000,000 and provides a net benefit to the State as provided herein with respect to a mega project, but not more than 100 percent of the withholdings of the business from the qualified business facility;

(c) \$10,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility used by an eligible business in a targeted industry to conduct a collaborative research relationship with a doctoral university, but not more than

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100 percent of the withholdings of the business from the qualified business facility;

(d) \$8,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility located in a New Jersey State opportunity zone municipality, but not more than 90 percent of the withholdings of the business from the qualified business facility; and

(e) \$4,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility located in any other eligible area, but not more than 80 percent of the withholdings of the business from the qualified business facility.

(2) Except as related to a qualified business facility located in a New Jersey investment zone, the amount of tax credits available to be applied by the business annually shall be the lesser of the maximum amount under the applicable subparagraph of paragraph (1) of this subsection or an amount equal to:

(a) in the case of a business located in New Jersey at the time of application, 100 percent of the prorated portion, over the eligibility period, of the projected cost differential during the eligibility period between the capital investment requirements in the qualified business facility and a comparable out of state facility under consideration by the business, as substantiated by the business in its application and subject to independent verification and confirmation by the authority; and

(b) in the case of business not located in New Jersey at the time of application, 125 percent of the prorated portion, over the eligibility period, of the projected cost differential during the eligibility period between the capital investment requirements in the qualified business facility and a comparable out of state facility under consideration by the business, as substantiated by the business in its application and subject to independent verification and confirmation by the authority.

8. (New section)a. (1) A business shall submit an application for tax credits prior to July 1, 2025. The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, 2025.

(2) A business shall submit its documentation indicating that it has met the capital investment and employment requirements specified in the incentive agreement for certification of its tax credit amount within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. In no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.

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

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

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

The credit amount may be taken by the tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax periods, and shall expire thereafter. Pursuant to section 9 of P.L. , c. (C.) (pending before the Legislature as this bill) the tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time within three years of the date of issuance for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in years may be taken in any tax period.

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

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

d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 5 of P.L. , c. (C.) (pending before the Legislature as this bill), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by the incentive agreement has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be awarded.

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

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

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

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

(b) For a project located within a New Jersey investment zone and which qualifies for a tax credit pursuant to subsubparagraph (ii) of any of subparagraphs (a) through (e) of paragraph (4) of subsection d. of section 7 of P.L. , c. (C.) (pending before the Legislature as this bill), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a New Jersey investment zone increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (4) of subsection d. of section 7 of P.L. , c. (C.) (pending before the Legislature as this bill), then the authority shall recalculate the total tax credit amount per full-time job by using the certified capital investment of the project allowable under the applicable subsubparagraph and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraph (b), (c), (d), or (e) of paragraph (4) of subsection d. of section 7 of P.L. , c. (C.) (pending before the Legislature as this bill), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount shall be adjusted accordingly pursuant to this section.

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e. The authority shall not enter into an incentive agreement with a business that has previously received incentives pursuant to any other program administered by the authority unless:

(1) the business has satisfied all of its obligations underlying the previous award of incentives or is compliant with section 6 of P.L. , c. (C.) (pending before the Legislature as this bill); or

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

9. (New section) A business may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the business from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, in an amount not less than \$25,000, to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5. The certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the business of less than 75 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except that the 75 percent minimum measure of consideration shall not apply to the sale or assignment of a tax credit transfer certificate to an affiliate irrespective of whether the affiliate met the capital investment and employment requirements specified in the incentive agreement. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the business that originally applied for and was awarded the credit.

10. (New section) a. The chief executive officer of the authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill), including but not limited to: examples of and the determination of capital investment; the enumeration of other eligible areas; the enumeration of specific targeted industries; specific delineation of the other eligible areas; the determination of the limits, if any, on the expense or type of furnishings that may constitute

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capital improvements; the promulgation of procedures and forms necessary to apply for a tax credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility; and provisions for tax credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the tax credit.

b. Through regulation, the authority shall establish standards by which qualified business facilities shall be constructed or renovated in compliance with the minimum environmental and sustainability standards.

c. Through regulation, the chief executive officer of the authority, in consultation with the Secretary of Higher Education, shall establish standards for collaborative research relationships between businesses in targeted industries and colleges and universities sufficient to qualify a business for an enhanced base or bonus tax credit amount under sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill).

11. (New section) Sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "Economic Redevelopment and Growth Act of 2019."

12. (New section) As used in sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill):

"Affordable housing-focused residential project" means a residential project that meets the requirements of an affordable housing-focused residential project as detailed pursuant to paragraph (1) of subsection e. of section 14 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

"Board" means the board of the New Jersey Economic Development Authority.

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

"Brownfield site" means an area included in the inventory of brownfield sites prepared by the Brownfields Redevelopment Task Force pursuant to section 2 of P.L.2005, c.365 (C.58:10B-23.2).

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

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"Collaborative workspace" means co-working, accelerator, incubator, or other shared working environments that promote collaboration, interaction, socialization, and coordination among tenants through the clustering of multiple businesses or individuals, that is located in a redevelopment project in which a workspace is the greater of: 2,500 of dedicated square feet or 10 percent of the total property on which the redevelopment project is situated; includes a community manager; is focused on collaboration among the community members; includes regularly scheduled education events for the community members; and includes a physical open space that supports the engagement of its community members.

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

"Developer" means a person who enters or proposes to enter into an incentive agreement or a tax credit agreement pursuant to section 17 of P.L. , c. (C.) (pending before the Legislature as this bill), including, but not limited to, a lender that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project.

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

"Distressed, densely populated municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, with a population density of at least 20,000 persons per square mile as of the year of that the Department of Community Affairs most recently published municipal revitalization index, as of the effective date of sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Eligibility period" means the period specified in a tax credit agreement during which a developer may claim a tax credit under the program, which period shall not exceed 20 years for a commercial project or 15 years for a residential project.

"Food delivery source" means access to nutritious foods, such as fresh fruits and vegetables, through grocery operators, including, but not limited to, a full-service supermarket or grocery store or other healthy food retailer operating premises having at least 10,000 square feet, including, but not limited to, a prepared food establishment selling primarily nutritious ready-to-serve meals.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill), is subject to financial restrictions imposed pursuant to the Municipal Stabilization and Recovery Act

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of 2016, P.L.2016, c.4 (52:27BBBB-1 et al.), as of the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

"Incentive area" means a New Jersey State opportunity zone municipality, a New Jersey investment zone, or a municipality where the main campus of a public research university is located.

"Incentive grant" means reimbursement, through the Economic Redevelopment and Growth Program of 2019 established pursuant to section 13 of P.L. , c. (C.) (pending before the Legislature as this bill), of all or a portion of the project financing gap of a commercial project to be financed based on the increase of State revenues realized from the commercial project.

"Incentive grant agreement" means the agreement executed between a developer of a commercial project and the authority pursuant to section 17 of P.L. , c. (C.) (pending before the Legislature as this bill), which sets forth the terms and conditions under which the developer may receive the incentive grant authorized pursuant to the provisions of sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

"Low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region, as determined by the Department of Community Affairs's Council on Affordable Housing pursuant to section 7 of P.L.1985, c.222 (C.52:27D-307) in which the housing is located.

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

"Moderate-income housing" means housing affordable according to federal Department of Housing and Urban Development or other

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recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent, but less than 80 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

"Municipal Revitalization Index" means the 2017 index by the Department of Community Affairs ranking New Jersey's municipalities according to separate indicators that measure diverse aspects of social, economic, physical, and fiscal conditions in each locality.

"National natural landmark" means an area designated by the federal Secretary of the Interior as a national natural landmark as a result of the area's national significance to the United States according to the federal National Natural Landmark Program rules under 36 C.F.R. s.62.1 et seq.

"New Jersey Register of Historic Places" means the permanent record of areas, sites, structures and objects within the State determined to have significant historical, archeological, architectural or cultural value pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.).

"New Jersey investment zone" means a distressed, densely populated municipality or a government-restricted municipality.

"New Jersey State opportunity zone" means a federal population census tract in this state that qualified as a low-income community pursuant to 26 U.S.C. s.45D, and was eligible to be nominated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"New Jersey State opportunity zone municipality" means a municipality in which a New Jersey State opportunity zone is located.

"Program" means the Economic Redevelopment and Growth Program of 2019 established pursuant to section 13 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Project cost" means the costs incurred in connection with a redevelopment project by a developer until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements, including ancillary infrastructure projects. The cost of acquisition of land or fees associated with the application or administration of a tax credit under sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill) shall not constitute a project cost.

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

"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project.

"Public research university" means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, or Montclair State University;

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

"Residential project" means a redevelopment project that is predominantly multi-family residential and includes at least 50 residential units for purchase or lease, and may include a parking component.

"Significant, mixed-use residential project" means a residential project that is at least 15-stories tall, contains at least 100 residential units, and which includes both a non-residential development component and a residential development component. "Significant, mixed-use residential project" shall include projects for which (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities may be considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development, and (2) the residential and non-residential developments are located on the same lot.

"Special affordable housing project" means a project that consists entirely of any composition of very low-, low-, or moderate-income housing to be completed by a developer that is a community development organization or a nonprofit organization focused on affordable housing issues in this State.

"Tax credit" means an award of tax credit to assist a developer with all or a portion of the project financing gap of a residential

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project pursuant to the provisions of sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tax credit agreement" means the agreement executed between a developer of a residential project and the authority pursuant to section 17 of P.L. , c. (C.) (pending before the Legislature as this bill), which sets forth the terms and conditions under which the developer may receive the tax credit authorized pursuant to the provisions of sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

"Transformative project" means a redevelopment project located in a qualified opportunity zone, designated pursuant to 26 U.S.C. s.1400Z-1, that is located in a New Jersey investment zone or in a municipality in this State that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year that, on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), is a municipality with either the greatest population or the highest municipal revitalization index distress score in the State, and which meets or exceeds the following qualifications:

(1) totals 500,000 or more square feet of new or substantially renovated commercial office space;

(2) includes 1,000 or more new residential units, 20 percent of which shall be constructed for occupancy by low-income and moderate-income households with affordability controls as required under the rules of the Council on Affordable Housing unless the residential project conforms to the local municipal affordable housing ordinance, provided that the legality of the municipal affordable housing ordinance has not been contested in or subject to review by a court of competent jurisdiction;

(3) includes a minimum of 50,000 square feet of new retail space;

(4) contains at least 30 percent open space that is accessible to the public;

(5) contains structured parking located within a one-half mile radius, with bicycle and pedestrian connectivity, of the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including a light rail station, or a high frequency bus stop as certified by the New Jersey Transit Corporation;

(6) is projected to result in the creation of at least 2,000 jobs, including jobs to be located at the transformative project after project

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completion and jobs created related to the construction and development of the transformative project;

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

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

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

"Urban food desert community" means a physically contiguous urban area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, through supermarkets and grocery stores, as designated by the authority, in consultation with the Department of Agriculture.

"Very low-income housing" means housing developed as part of a qualified residential project, which is affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied, or reserved for occupancy by, households with a gross household income equal to 30 percent or less of the median gross household income for households of the same size within the housing region in which the qualified residential project is located.

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

13. (New section)a. The Economic Redevelopment and Growth Program of 2019 is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program to encourage development or redevelopment projects in incentive areas through the provision of incentive grants and tax credits to reimburse developers for certain project financing gap costs. The board may approve the award of an incentive grant or a tax credit to a developer upon review and approval of an application submitted to the authority pursuant to sections 15 and 16 of P.L. , c. (C. and C.) (pending before the Legislature as this bill).

b. (1) There shall be no annual or overall caps on the value of incentive grants that the authority may approve for the category of commercial projects under the program.

(2) For the category of residential projects, the aggregate of all tax credits issued by the authority shall not exceed \$500,000,000 , as

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provided in subsection e. of section 14 of P.L. , c. (C.)
(pending before the Legislature as this bill)

(3) For the category of special affordable housing projects, the aggregate of all tax credits issued by the authority shall not exceed \$100,000,000, as provided in subsection e. of section 14 of P.L. , c. (C.) (pending before the Legislature as this bill).

14. (New section)a. A developer of a commercial project shall be eligible to receive an incentive grant, and a developer of a residential project shall be eligible to receive a tax credit, for a redevelopment project only if the developer demonstrates to the authority at the time of application that:

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

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

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

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

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

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

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

(8) the redevelopment project shall be completed and the developer shall be issued a certificate of occupancy for the redevelopment project facilities by the applicable enforcing agency within four years of executing the tax credit agreement corresponding to the redevelopment project;

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

(10) the developer is not more than 24 months in arrears at the time of application; and

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

b. In addition to the requirements set forth in subsection a. of this section, for a commercial project to qualify for an incentive grant the developer shall demonstrate that:

(1) the incremental increase of State revenues realized from the commercial project upon its completion shall be in excess of the amount necessary to reimburse the developer for its project financing gap; and

(2) the developer shall have an equity participation of at least 20 percent of the total project cost.

c. (1) In addition to the requirements set forth in subsection a. of this section, for a developer of a residential project to qualify for a tax credit, the residential project shall be located in a New Jersey State opportunity zone municipality, a New Jersey investment zone, or in a municipality where the main campus of a public research university is located.

(2) For a residential project to qualify for a tax credit the residential project shall have the lesser of:

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

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

(c) a total project cost of at least \$5,000,000 if the project is in a New Jersey State opportunity zone municipality.

d. In addition to the requirements set forth in subsections a. and c. of this section, for a residential project consisting of newly-constructed residential units to qualify for a tax credit, the developer shall reserve at least 20 percent, but not more than 50 percent, of the residential units constructed for occupancy as low- and moderate-income housing, with affordability controls as required under the rules of the Council on Affordable Housing, established pursuant to section 5 of P.L.1985, c.222 (C.52:27D-305), unless: (1) the municipality in which the property is located has received substantive certification from the Council on Affordable Housing and such a reservation is not required under the approved affordable housing plan, (2) the municipality has been given a judgment of repose or a judgment of compliance by a court of competent jurisdiction, and such a reservation is not required under an approved affordable

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housing plan, or (3) the residential project conforms to the municipal affordable housing ordinance, provided that the legality of the municipal affordable housing ordinance has not been contested in or subject to review by a court of competent jurisdiction. The developer shall reserve at least 10 percent of housing not constructed for occupancy as low- and moderate-income housing for workforce housing.

e. For a project to qualify as a special affordable housing project, a developer that is a community development organization or a nonprofit organization focused on affordable housing issues shall submit an initial application to New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for consideration, evaluation, and possible recommendation to the authority. The New Jersey Housing and Mortgage Finance Agency shall consider and evaluate each application received pursuant to this subsection e., and shall recommend to the authority the approval of applications for special affordable housing projects that permanently convert a property or properties to very low-, low-, or moderate-income housing pursuant to a deed restriction executed by or on behalf of the owner of the property, contingent upon the receipt of tax credits for the special affordable housing project. The authority shall not accept an application for a special affordable housing residential project that has not received the recommendation of the New Jersey Housing and Mortgage Finance Agency.

15. (New section) a. Prior to January 1, 2026, a developer seeking an incentive grant or a tax credit shall submit an application to the authority in a form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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

c. Prior to approving a program application, the authority shall review the project cost, evaluate, and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis, which demonstrates that the overall public assistance provided to the redevelopment project will result in net benefits to the State. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis, performed by a third party retained by the authority, concerning the developer's application for an incentive grant or a tax credit, if the authority deems such retention to be necessary.

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16. (New section) a. The authority shall determine eligibility for the award of incentive grants and tax credits through an ongoing application, review, and approval process for commercial projects and residential projects, respectively.

b. (1) The authority shall review and evaluate applications for incentive grants and tax credits submitted to the authority. All applications for redevelopment projects that satisfy the criteria set forth in sections 14 and 15 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be awarded incentive grants or tax credits under the program, except that the authority shall not award a tax credit to a residential project developer in an amount that exceeds the residential project cap provided in subsection b. of section 13 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) The authority shall establish minimum requirement for redevelopment projects, and may establish different minimum requirements and criteria for commercial projects and residential projects. If a developer indicates that the developer is applying to both the authority and the New Jersey Housing and Mortgage Finance Agency, established pursuant to section 4 of P.L.1983, c.530 (C.55:14K-4), for tax credits, the authority and the New Jersey Housing and Mortgage Finance Agency shall confer to determine the appropriate amount of public support for the redevelopment project.

c. The criteria developed by the authority pursuant to subsection b. of this section shall assess applications for tax credits based on measures to determine project eligibility and the project financing gap, which shall include, but shall not be limited to the following:

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

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

(3) the ability of the redevelopment project to adapt and display resilience to changing environments and deliver its objectives;

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

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

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

(7) for a residential project, an evaluation of market rate rents for residential units in the municipality where the residential project is located, in relation to the projected return on investment for the residential project;

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

(9) apprenticeships or workforce programs to be offered due to completion of the redevelopment project.

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d. For a residential project, if insufficient funding exists to fully fund all eligible projects, a residential project may be offered partial funding.

17. (New section) a. Following approval of an application pursuant to section 16 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority shall enter into an incentive grant agreement or a tax credit agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the incentive grant agreement or tax credit agreement on behalf of the State.

b. (1) An incentive grant agreement or a tax credit agreement shall specify the amount of the tax credit the authority shall award to the developer and the duration of the eligibility period, which shall not exceed 10 years for a commercial project or 15 years for a residential project;

(2) The incentive grant agreement or tax credit agreement shall provide an estimated date of completion and require periodic progress reports, including the submittal of executed financing commitments and documents that evidence site control. If the authority does not receive periodic progress reports, or if the progress reports do not demonstrate satisfactory progress toward project completion or the receipt of a certificate of occupancy by the appropriate agency within four years of executing the incentive grant agreement or tax credit agreement corresponding to the project, then the authority shall rescind the incentive grant or tax credit;

(3) The incentive grant agreement or tax credit agreement shall include a provision that limits the amount of tax credits that a developer can claim in any privilege period or taxable year to 90 percent of the developer's overall tax liability, except that the limitation shall be set at 100 percent of the developer's overall tax liability if the redevelopment project is located in a New Jersey investment zone, or in a municipality in which the main campus of a public research university is located; and

(4) The incentive grant agreement or tax credit agreement may also require verification of the financing gap at the time the developer provides executed financing commitments to the authority, and verification of the developer's projected cash flow at the time of certification of project completion.

c. To safeguard and conserve public funds, if the authority determines that the project financing gap is smaller than determined at board approval, the authority shall reduce the incentive grant or tax credit on a pro rata basis. If there is no project financing gap, then the developer shall forfeit the incentive grant or tax credit. If the developer's cash flow is greater than projected at the time of board approval, on an annual basis the authority shall require the developer to pay to the authority up to 25 percent of the amount of cash flow that exceeds the return on investment approved by the board, which shall be deposited into the State's General Fund.

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d. A developer shall submit, prior to the first disbursement of an incentive grant or a tax credit under an incentive grant agreement or tax credit agreement, but no later than six months following project completion, satisfactory evidence of actual project costs, as certified by a certified public accountant, and evidence of a temporary certificate of occupancy, or other documentation or event evidencing project completion that begins the eligibility period indicated in the tax credit agreement.

e. (1) The authority may recapture all or part of an incentive grant or tax credit awarded to a developer if the developer does not remain in compliance with the requirements of an incentive grant agreement or tax credit agreement for the duration of the eligibility period. A recapture pursuant to this subsection may include interest on the recapture amount, at a rate equal to the interest rate on outstanding tax balances, plus any penalties, and all costs incurred by the authority and the Division of Taxation in the Department of the Treasury in connection with the pursuit of the recapture, including, but not limited to, legal fees, court costs, and other costs of collection. Failure of the developer to meet any program criteria shall constitute a default, and shall result in the recapture of all or part of the incentive grants or tax credits awarded, except that the authority may, in the authority's discretion, grant a developer not more than two separate extensions, each of which shall not exceed one year, to the project completion and certificate of occupancy requirements of the tax credit agreement.

(2) If all or part of a tax credit sold or assigned pursuant to section 21 of P.L. , c. (C.) (pending before the Legislature as this bill) is subject to recapture, then the authority shall pursue recapture from the developer and not from the purchaser or assignee of the tax credit transfer certificate. The purchaser or assignee of a tax credit transfer certificate shall be subject to any limitations and conditions that apply to the use of the tax credits by the eligible business.

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

18. (New section) a. Up to the limits established in this section and in accordance with an incentive grant agreement or tax credit agreement, beginning upon the receipt of a certificate of occupancy for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive grant agreement or tax credit agreement, a commercial developer shall be eligible for and a residential developer shall be awarded a base tax credit equal to 12 percent of the total project cost of the redevelopment project.

b. (1) Subject to the limits established in this section, a commercial developer may be eligible for, and residential project developer may be awarded, an incentive grant or tax credit in excess of the base amount pursuant to subsection c. of this section; provided,

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however, the total tax credit allowed shall not exceed 24 percent of the total project cost of the redevelopment project.

(2) Notwithstanding the requirements of paragraph (1) of this subsection b., (a) for a commercial project or residential project that is on a brownfield site or on the New Jersey Register of Historic Places; or (b) for a commercial project or residential project that is located in a New Jersey investment zone, the total tax credit awarded shall not exceed 33.3 percent of the total project cost of the residential project.

(3) Notwithstanding the requirements of paragraphs (1) and (2) of this subsection b., for a significant, mixed-use residential project that is located in a New Jersey investment zone or in a municipality in this State that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year that, on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), is a municipality with either the greatest population or the highest municipal revitalization index distress score in the State, the total tax credit awarded shall not exceed 40 percent of the total project cost of the residential project.

c. Subject to the limits established in subsections d. and e. of this section, the authority shall increase eligibility for incentive grants or the value of tax credits available to a developer of a redevelopment project that:

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

(2) is a residential project located within five miles of a qualified business facility that receives tax credits pursuant to the Grow New Jersey Program of 2019, established by section 5 of P.L. , c. (C.) (pending before the Legislature as this bill), and is a residential project for which the developer has entered into an agreement with the owner of the qualified business facility to dedicate at least 15 percent of the market rate units in the residential project to providing workforce housing to employees who work at the qualified business facility, by eight percent of the total project cost;

(3) is a residential project located within five miles of a business, and is a residential project for which the developer has entered into an agreement with the owner of that business to dedicate at least 15 percent of the market rate units in the residential project to providing workforce housing to employees of that business, by five percent of the total project cost;

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

(5) includes a health care or health services center with a minimum of 10,000 square feet of space devoted to health care or health services and is located in a municipality with a 2017 Municipal Revitalization Index distress score of 50 or higher, as calculated by the New Jersey Department of Community Affairs, lacking adequate

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access, as determined by the Commissioner of Health, to health care or health services, by 1.5 percent of the total project cost;

(6) is located in an area designated as Planning Area 1 (Metropolitan) pursuant to the “State Planning Act, P.L.1985, c.398 (C.52:18A-196 et seq.), and within a one-half mile radius, with bicycle and pedestrian connectivity, of the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including a light rail station, or a high frequency bus stop as certified by the New Jersey Transit Corporation, by four percent of the total project cost;

(7) qualifies as a tourism destination project, by four percent of the total project cost;

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

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

(10) includes an incubator facility or collaborative workspaces, by four percent of the total project cost;

(11) for a developer that has entered into a project labor agreement with a labor organization for completion of the redevelopment project, by three percent of the total project cost, which shall not be subject to the percentage limitation caps described in subsections a. through c. of this section and to the limitations related to the annual incremental increase of State revenues realized from the commercial project, as described in subsection e. of this section; and

(12) is a residential project located within a New Jersey State opportunity zone, by five percent of the total project cost.

d. The value of all tax credits approved by the authority for a residential project shall not exceed: \$35,000,000 per residential project that is located in a New Jersey State opportunity zone municipality or a municipality with a 2017 Municipal Revitalization Index distress score, as last calculated by the New Jersey Department of Community Affairs prior to the effective date of sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill), that exceeds 60, or \$20,000,000 for any other residential project.

e. For a redevelopment project, the combined value of the incentive grants or tax credits awarded pursuant to the incentive grant agreement or tax credit agreement for a parking component of the redevelopment project shall not exceed 80 percent of the cost of the parking component, except that the authority may award tax credits for a parking component up to 100 percent of the cost of the parking component if the authority determines, in consultation with the

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municipality in which the redevelopment project is located, that the parking component will be a significant benefit to the municipality.

f. The authority may award not more than five transformative project tax credits to redevelopment projects that meet the requirements of a transformative project, but shall not award transformative project tax credits to more than two projects within a municipality. The authority may award a transformative project tax credit to the developer of the transformative project in an amount equal to 40 percent of the total transformative project costs. The award of a transformative project tax credit to a developer shall not preclude the developer from also receiving an award of incentive grants or tax credits under the program.

19. (New section)a. A developer that is awarded an incentive grant or tax credit pursuant to sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill) shall submit annually, commencing in the year in which the incentive grant or tax credit is issued and for the remainder of the eligibility period, a report indicating whether the developer is aware of any condition, event, or act that would cause the developer not to be in compliance with the incentive grant agreement or tax credit agreement, pursuant to the provisions of sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill), or any reporting requirements contained in the incentive grant agreement, tax credit agreement, or tax credit certificate.

b. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide, to the developer and the director, a certificate of compliance indicating the amount of incentive grant for which the developer is qualified to receive or the amount of tax credits that the developer may apply against the developer's tax liability.

(2) (a) For a commercial project, upon receipt by the director of the certificate of compliance, the State Treasurer shall pay from the State's General Fund, subject to the limitation described in subsection e. of section 18 of P.L. , c. (C.) (pending before the Legislature as this bill), to the developer an amount equivalent to incremental State revenues directly realized from businesses operating at the site of the commercial project from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed on sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilities, and cable television companies under the jurisdiction of the New Jersey Board of Public Utilities, or comparable entity, except for those tariffs, fees, or taxes related to

societal benefits charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance with the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on public utility and cable television services and commodities, the tax derived from net profits from business, a distributive share of partnership income, or a pro rata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) or the purchase of furniture, fixtures and equipment, or materials for the remediation, the construction of new structures at the site of a redevelopment project, the hotel and motel occupancy fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property at the site of the redevelopment project and paid to the State Treasurer for use by the State, that is not credited to the "Shore Protection Fund" or the "Neighborhood Preservation Nonlapsing Revolving Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8).

(b) For a residential project, upon receipt by the director of the certificate of compliance, the director shall allow the developer a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer shall apply the credit awarded against the developer's liability under section 5 of P.L.1945, c.162 (C.54:10A-5) for the privilege period during which the director allows the developer a tax credit pursuant to this subsection. A developer shall not carry forward an unused tax credit. Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method, which agreement shall be provided to the director, accompanied by any additional information as the director may prescribe.

20. (New section)a. A residential project developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of claiming the credit against the tax liability of the developer. The tax credit transfer certificate may be sold or assigned, in full or in part, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit only against a tax liability imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). The certificate provided to the developer shall include a waiver of the

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developer's right to claim the amount of the credit that the developer has elected to sell or assign against the developer's tax liability.

b. The developer shall not sell or assign, or pledge as collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value, which shall be permitted. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other terms and conditions that the director may prescribe.

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

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

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

21. (New section) a. A developer that has entered into an incentive grant agreement or tax credit agreement pursuant to section 17 of P.L. , c. (C.) (pending before the Legislature as this bill) may, upon notice to, and written consent of the authority and State Treasurer, pledge, assign, transfer, or sell any or all of its right, title, and interest in and to the incentive grant agreement or tax credit agreement and in the incentive grants or tax credits payable under the incentive grant agreement or tax credit agreement, and the right to receive the incentive grants or tax credits, along with the rights and remedies provided to the developer under the incentive grant agreement or tax credit agreement. Any assignment shall be an absolute assignment for all purposes, including federal bankruptcy law.

b. Any pledge of an incentive grant or tax credit or rights thereto as collateral made by the developer shall be valid and binding from the time the pledge is made and filed in the records of the authority. The incentive grant or tax credit pledged shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledge recipient irrespective of whether the parties have notice thereof. Neither the incentive grant agreement or tax credit agreement nor any other instrument by which a pledge under this section is created need be filed or recorded, except with the authority.

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22. (New section) Beginning the year next following the year in which sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill) takes effect and every two years thereafter, a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant to an agreement executed between the State college or university and the authority, prepare a report on the implementation of the program, and submit the report to the authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial report required under this section shall include a description of each redevelopment project for which a developer is receiving an incentive grant or tax credit under the program, a detailed analysis of the consideration given in each project to the factors set forth in sections 15 and 16 of P.L. , c. (C. and C.) (pending before the Legislature as this bill), the return on investment for incentive grant or tax credits awarded, the redevelopment project's impact on the State's economy, and any other metrics the State college or university determines are relevant based upon national best practices. The authority shall prepare a written response to the report, which the authority shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature.

23. (New section) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer deems necessary to implement the provisions of sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

24. (New section) Sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known, and may be cited, as the "Food Desert Relief Act."

25. (New section) a. The Legislature finds and declares that: (1) there are certain areas of the State, known as "food desert" communities, in which residents are unable to obtain reasonable and adequate access to nutritious foods and, in particular, to fresh fruits and vegetables; (2) the inaccessibility of nutritious food in food desert communities has been attributed, in large part, to the absence of supermarkets and grocery stores in those communities; (3) low-income families are more likely than others to live in food desert communities and to lack the transportation or financial resources necessary to reach distant wholesome markets; and (4) the

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establishment of financial incentives to supermarkets and grocery stores is a reasonable means by which to ensure that residents of food desert communities in the State are provided with reasonable access to nutritious, fresh, and delicious produce, and are afforded the opportunity thereby to make healthier eating choices for themselves and for their families.

b. The Legislature therefore determines that it is both reasonable and necessary to authorize the New Jersey Economic Development Authority to establish an initiative that provides incentives to supermarkets and grocery stores to establish and retain locations in food desert communities in order to provide a consistent, and easily accessible, source of fresh produce to residents in those communities.

26. (New section) As used in sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill):

"Authority" means the New Jersey Economic Development Authority.

"Department" means the Department of Agriculture.

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, through supermarkets and grocery stores, and which has been designated as a food desert community pursuant to subsection b. of section 27 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Initial operating costs" means expenditures for the operation of a supermarket or grocery store within the first three years after opening to the public, but within a standard range based upon industry standards, as determined by the authority.

"Initiative" means the Food Desert Relief Initiative established in section 27 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Project cost" means the costs incurred in connection with the establishment of a supermarket or grocery store within a food desert community by the developer until the opening of the supermarket or grocery store to the public, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, any environmental remediation costs, plus costs not directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements, including ancillary infrastructure projects.

"Project financing gap" means the part of the total project cost, including return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer-contributed capital, which shall not be less than 20 percent of the total project cost, which may include the value of

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any existing land and improvements in the project area owned or controlled by the developer, and the cost of infrastructure improvements in the public right-of-way, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis

"Supermarket or grocery store" means a retail facility of at least 18,000 square feet, of which at least 90 percent is occupied by a full-service supermarket or grocery store.

27. (New section) a. (1) There is established the Food Desert Relief Initiative to be administered by the New Jersey Economic Development Authority. The initiative shall include tax credit components, as provided in sections 28 and 29 of P.L. , c. (C. and C.) (pending before the Legislature as this bill), in order to incentivize businesses to establish and retain new supermarkets and grocery stores in food desert communities.

(2) The total value of tax credits approved by the authority pursuant to sections 28 and 29 of P.L. , c. (C. and C.) (pending before the Legislature as this bill), shall not exceed an aggregate limit of \$30,000,000. The authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall establish a method for the chief executive officer of each supermarket or grocery store to certify the annual revenues and expenditure of the qualifying supermarket or grocery store.

b. The authority, in consultation with the Department of Agriculture and the Department of Community Affairs, shall initially designate not more than 75 separate geographic areas that are most in need of a supermarket or grocery store as food desert communities in this State. The authority shall develop criteria for the designation of food desert communities, but each separate food desert community shall consist of a distinct geographic area with a single defined border. The criteria shall, at a minimum, incorporate analysis of municipal or census tract poverty statistics, food desert information from the Economic Research Service of the United States Department of Agriculture, and healthier food retail tract information from the federal Centers for Disease Control and Prevention. The authority may also consider data related to municipal or census tract population size and population density in making food desert community designations pursuant to this section. The authority may designate additional food desert communities once every three years following the effective date of sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The authority, in consultation with the Department of Agriculture and the Department of Community Affairs, shall establish one or more public-private partnerships with counties, municipalities, nonprofit organizations, community partners, and businesses to leverage the value of tax credits available to the authority pursuant to subsection a. of this section to stimulate grocery

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store and supermarket development and increase the availability of fresh food in food desert communities. The authority may award tax credits to the operator of a qualifying supermarket or grocery store, or may sell tax credits, as determined by the authority, and dedicate all proceeds from the sale to provide grants and loans to qualifying supermarkets or grocery stores. For the award of tax credits, grants, or loans, under the initiative, the authority shall require that the each \$1 of tax credits, grants, or loans, awarded by the authority be leveraged against at least \$3 from all other sources, to assist a grocery store or supermarket with the project costs of establishing a grocery store or supermarket in a food desert community, to mitigate any project financing gap, and to mitigate initial operating costs of the supermarket or grocery store.

28. (New section) a. For privilege periods beginning on or after January 1 next following the effective date of sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill), a taxpayer that establishes and opens for business to the public, the first supermarket or grocery store in a designated food desert community, shall be awarded a credit against the tax due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to not more than 25 percent of the total project costs, project financing gap, and initial operating cost of opening and operating the supermarket or grocery store. A taxpayer that qualifies for the award of a tax credit under this section may claim the award in the privilege period in which the taxpayer establishes and opens the supermarket or grocery store for business, and for the three privilege periods next following the initial opening, provided that the supermarket or grocery store remains in business and open to the public. For a taxpayer to be allowed a tax credit pursuant to this section, the taxpayer shall meet the requirements of this section, and the rules and regulations adopted pursuant thereto.

b. (1) To qualify for a tax credit awarded pursuant to this section, a taxpayer shall apply to the authority for a certification, and the application shall include the following:

(a) from the department, a certification that the taxpayer qualifies as a supermarket or grocery store, as defined in section 26 of P.L. , c. (C.) (pending before the Legislature as this bill), is located in a food desert community designated pursuant to subsection b. of section 27 of P.L. , c. (C.) (pending before the Legislature as this bill), and is the first supermarket or grocery store to be established and opened for business in that designated food desert community after the effective date of sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill); and

(b) from the chief executive officer, or an equivalent officer, of the supermarket or grocery store, documents, certified by the chief executive officer, demonstrating the annual revenues and expenditures of the individual supermarket or grocery store for the year in which the supermarket or grocery store is otherwise qualified

to be awarded a tax credit pursuant to sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period shall be as prescribed by the Director of the Division of Taxation in the Department of the Treasury, in consultation with the chief executive office of the authority. The amount of the credit applied pursuant to this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce a taxpayer's tax liability for a privilege period to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the privilege period in which the certification is approved and any unused portion thereof may be carried forward into the next 10 privilege periods or until exhausted, whichever is earlier.

c. The authority shall award tax credits to supermarkets or grocery stores until either the available tax credits are exhausted or all projects that are eligible for a tax credit pursuant to the provisions of sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a supermarket or grocery store in accordance with the provisions of subsection a. of section 27 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority may offer the developer a tax credit in an amount less than that provided in subsection a. of section 28 of P.L. , c. (C.) (pending before the Legislature as this bill).

29. (New section)a. For taxable years beginning on or after January 1 next following the effective date of sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill), a taxpayer that establishes and opens for business to the public, the first supermarket or grocery store in a designated food desert community, shall be awarded a credit against the tax due pursuant to N.J.S.54A:1-1 et seq. in an amount equal to in an amount equal to not more than 25 percent of the total project costs, project financing gap, and initial operating cost of opening and operating the supermarket or grocery store. A taxpayer that qualifies for the award of a tax credit under this section may claim the award in the taxable year in which the taxpayer establishes and opens the supermarket or grocery store for business, and for the three taxable year next following the initial opening, provided that the supermarket or grocery store remains in business and open to the public. For a taxpayer to be awarded a tax credit pursuant to this section, the taxpayer shall meet the requirements of this section, and the rules and regulations adopted pursuant thereto.

b. (1) To qualify for a tax credit awarded pursuant to this section, a taxpayer shall apply to the authority for a certification, and the application shall include the following:

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(a) from the department, a certification that the taxpayer qualifies as a supermarket or grocery store, as defined in section 26 of P.L. , c. (C.) (pending before the Legislature as this bill), is located in a food desert community designated pursuant to subsection b. of section 27 of P.L. , c. (C.) (pending before the Legislature as this bill), and is the first supermarket or grocery store to be established and opened for business in that designated food desert community after the effective date of sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill); and

(b) from the chief executive officer, or an equivalent officer, of the supermarket or grocery store, documents, certified by the chief executive officer, demonstrating the annual revenues and expenditures of the individual supermarket or grocery store for the year in which the supermarket or grocery store is otherwise qualified to be awarded a tax credit pursuant to sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed against the tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall be as prescribed by the Director of the Division of Taxation in the Department of the Treasury, in consultation with the chief executive officer of the authority. The amount of the credit applied pursuant to this section against the tax imposed pursuant to N.J.S.54A:1-1 et seq. shall not reduce a taxpayer's tax liability for a taxable year to an amount less than zero. Any credit shall be valid in the taxable year in which the certification is approved and any unused portion thereof may be carried forward into the next 10 taxable years or until depleted, whichever is earlier.

c. A business entity that is classified as a partnership for federal income tax purposes shall not be allowed the credit directly under N.J.S.54A:1-1 et seq., but the amount of credit of the taxpayer in respect of a distributive share of partnership income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year.

A taxpayer that is a New Jersey S corporation shall not be allowed the credit directly under N.J.S.54A:1-1 et seq., but the amount of credit of a taxpayer in respect of a pro rata share of S corporation income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S corporation income of the New Jersey S corporation for its taxable year ending within or with the taxpayer's taxable year.

d. The authority shall award tax credits to supermarkets or grocery stores until either the available tax credits are exhausted or all projects that are eligible for a tax credit pursuant to the provisions

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of sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a supermarket or grocery store in accordance with the provisions of subsection a. of section 27 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority may offer the developer a tax credit in an amount less than that provided in subsection a. of section 29 of P.L. , c. (C.) (pending before the Legislature as this bill).

30. (New section) The authority, in consultation with the department, the Director of the Division of Taxation in the Department of the Treasury, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to carry out the provisions of sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill).

31. (New section) Within one year of the effective date of sections 24 through 31 of P.L. , c. (C.) (pending before the Legislature as this bill) and for the three years thereafter, the authority shall annually submit a report to the Governor, the State Treasurer, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, on the effectiveness of the tax credit in establishing supermarkets and grocery stores in food desert communities.

32. (New section) Sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "New Jersey Community-Anchored Development Act."

33. (New section) The purpose of the "New Jersey Community-Anchored Development Act" is for the New Jersey Economic Development Authority to facilitate, in partnership with the State's key not-for-profit and governmental anchor institutions, large-scale development projects with desirable employment and geographical characteristics that are to impact a broader community. The Legislature finds that where a broad commonality of goals exists between anchor institutions and the State, the authority can effectively utilize anchor institutions as investors in, and additional overseers of, projects that the authority seeks to incentivize. Under the legislation, anchor institutions in the areas of education, health care, culture, community development, and economic development will be given the opportunity to act as investors in targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the deep experience of the numerous anchor institutions in the State, institutions that enjoy decades-long relationships with communities around the State, making them ideal partners for companies wanting to come to or expand in New Jersey.

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34. (New section) As used in sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

"Anchor institution" means a governmental or nonprofit entity, incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, that is a comprehensive health care system, a public research university, a private research university, a major cultural institution, or an experienced nonprofit economic or community development entity, certified as an anchor institution by the board.

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

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

"Commitment period" means the period of time, which shall be no greater than twice the eligibility period, that is granted to an anchor institution to repay to the authority the agreed reimbursement for the award of tax credits pursuant to the program,.

"Community-anchored project" means any capital project that is located in an area that is designated as a New Jersey State opportunity zone or is designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban) for which an anchor institution is to be awarded tax credits by the authority pursuant to a tax credit agreement which establishes the award of tax credits as an investment by the authority in the project, provided that the project will result in a capital investment of at least \$10,000,000 in a New Jersey State opportunity zone or in any other area of the State, but a project not located in a New Jersey State opportunity zone is to be primarily designed to result in the economic expansion of a targeted industry in this State.

"Comprehensive health care system" means an entity in this State that offers comprehensive health care services.

"Comprehensive health care services" means the basic benefits provided under a health benefits plan, including medical and surgical

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services provided by licensed health care providers who may include, but are not limited to, family physicians, internists, cardiologists, psychiatrists, rheumatologists, dermatologists, orthopedists, obstetricians, gynecologists, neurologists, endocrinologists, radiologists, nephrologists, emergency services physicians, ophthalmologists, pediatricians, pathologists, general surgeons, osteopathic physicians, physical therapists and chiropractors. Basic benefits may also include inpatient or outpatient services rendered at a licensed hospital, covered services performed at an ambulatory surgical facility, and ambulance services.

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

"Eligibility period" means the period in which an anchor institution may claim a tax credit under the New Jersey Community-Anchored Development Program, beginning with the tax period in which the authority accepts certification of the business that it has met the capital investment requirements of the program and extending thereafter for a term of not more than 10 years.

"Experienced nonprofit economic or community development entity" means a nonprofit entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes that has a primary purpose of advancing economic or community development in at least one area of the State and that has appropriate prior experience, as determined by the board, in developing similar types of projects.

"Major cultural institution" means a public or nonprofit institution within this State that engages in the cultural, intellectual, scientific, environmental, educational or artistic enrichment of the people of this State, and which is designated by the board as a major cultural institution.

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

"New Jersey State opportunity zone" means a federal population census tract in this state that qualified as a low-income community pursuant to 26 U.S.C. s.45D, and was eligible to be nominated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"Partner business" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, or other legal entity, but shall not include a public entity that enters into an agreement with an anchor institution to rent and occupy commercial space within a community-anchored project. Under the program a partner business, subject to agreement with the anchor institution, may lease one or more portions of the partner business's space in the community-anchored project to one or more other persons or entities.

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"Private research university" means Princeton University and any other institution of higher education in this State designated by the board as a private research university.

"Program" means the New Jersey Community-Anchored Development Program established as a pilot program pursuant to section 35 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Public research university" means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, and Montclair State University.

"Qualified business accelerator or incubator facility" means a commercial space that contains office, laboratory, or industrial space and which is located near, and presents opportunities for collaboration with a public research university, a private research university, teaching hospital, college, or university, and within which at least 50 percent of the gross leasable area is restricted for use by one or more targeted industry start-up companies during the commitment period.

"Targeted industry" means any industry identified from time to time by the authority including initially, biotechnology, life sciences, pharmaceuticals, aeronautics, clean energy, advanced manufacturing, large-scale food and beverage production, advanced transportation and logistics, finance, financial technology, insurance, media, information technology, machine learning, and artificial intelligence.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 39 of P.L. , c. (C.) (pending before the Legislature as this bill) between the authority and an anchor institution.

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

35. (New section) a. The New Jersey Community-Anchored Development Program is established as a pilot program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program to invest in and incentivize the expansion of targeted industries in the State and the continued development of certain areas of the State through the provision of tax credits to anchor institutions. The board shall certify qualified anchor institutions based on the requirements of sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill), and may approve the award of a tax credit to an anchor institution pursuant to sections 36 and 37 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. (1) The authority shall administer the program to invest in, and incentivize the establishment of, community-anchored projects by anchor institutions, independently or in collaboration with one or more partner businesses.

(2) The authority may award a tax credit to an anchor institution under the program which the anchor institution shall convert into an investment by the authority in a community-anchored project, subject to the condition that the anchor institution either sell and transfer the tax credit, or adopt a plan to use the tax credit in order to finance the completion of the community-anchored project, which condition shall be included in the tax credit agreement entered into pursuant to section 39 of P.L. , c. (C.) (pending before the Legislature as this bill). An anchor institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an equity investment in or to provide a loan or other financial support for the community-anchored project that will permit the anchor institution, and, if applicable, a partner business, to develop the community-anchored project and to attract tenants, owners, investors, lenders, partners, collaborators and other beneficial parties to the community-anchored project. A tax credit agreement, entered into pursuant to section 41 P.L. , c. (C.) (pending before the Legislature as this bill) shall detail the terms by which an anchor institution will convert the award of tax credits into an investment by the authority into the community-anchored project, subject to reimbursement to the authority of an agreed-upon amount by the end of the commitment period. References to investments and returns in sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill) shall also include loans and other financial support and their corresponding returns.

c. The combined value of all tax credits approved by the authority to be awarded in any year, pursuant to sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill), shall not exceed \$100,000,000.

d. Any funds reimbursed to the authority pursuant to the program shall be deposited into the General Fund of the State.

e. (1) On or before December 31 of the third year following the effective date of sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority shall prepare and submit an interim written report regarding the number and total monetary amount of tax credits granted pursuant to 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill), the geographical distribution of the credits granted, a summary of the tax credit transfer certificates issued pursuant to section 42 of P.L. , c. (C.) (pending before the Legislature as this bill), an evaluation of the effectiveness of the tax credits provided pursuant to sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill) in promoting the economic development in the State, recommendations for administrative or legislative changes to increase the effectiveness of

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the pilot program or to terminate the program, and any other information that the officer or the director may deem useful or appropriate.

(2) On or before December 31 of the fifth year following the effective date of sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority shall prepare and submit a final written report that meets the requirements of the interim written report required pursuant to paragraph (1) of this subsection e.

(3) The reports required pursuant to this subsection e. shall be submitted to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

36. (New section) a. An anchor institution shall be eligible to receive a tax credit under the program only if the anchor institution submits a program application to the authority that results in completion of a community-anchored project through a capital investment in a New Jersey State opportunity zone or, if the community-anchored project is primarily designed to result in the economic expansion of a targeted industry in this State, in an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban).

b. At the time of application, an anchor institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed community-anchored project will result in a capital investment in a New Jersey State opportunity zone or, if the project is primarily designed to result in the economic expansion of a targeted industry in this State, in an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban);

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete and then operate the community-anchored project, including, but not limited to, the proposed economic and business relationship between the anchor institution and any partner business;

(3) that, except for demolition and site remediation activities, the anchor institution, along with any partner business participating in a community-anchored project, has not commenced any construction at the site of the community-anchored project prior to submitting an application, unless the authority determines that the community-anchored project would not be completed otherwise or, in the event the community-anchored project is to be undertaken in phases, the requested tax credit covers only phases for which construction has not yet commenced;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the anchor institution to finance the establishment of the community-anchored project;

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(5) the total aggregate value of the tax credit for the entire eligibility period that is necessary in order for the anchor institution to finance the establishment of the community-anchored project;

(6) that the award of tax credits under the program will be converted into an investment by the authority into the community-anchored project and demonstrate to the authority the anticipated current and deferred returns, as applicable, on that investment;

(7) that the community-anchored project shall comply with the standards established by the authority through regulation based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c. 132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction;

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

(9) a description of the significant economic, social, planning, employment, environmental, fiscal and other benefits that would accrue to the State, county or municipality from the community-anchored project;

(10) that each worker and subcontractor working on construction of the community-anchored project prior to the start of the eligibility period shall be paid not less than \$15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;

(11) that during the eligibility period, each worker employed to perform construction work and building services work at the community-anchored project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the community-anchored project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to the entire facility;

(12) the extent to which the community-anchored development will result in the expansion of a targeted industry in this State;

(13) that the timing of the award and investment of tax credits under the program shall allow for the successful completion and operation of the community-anchored project; and

(14) that the anchor institution shall be able to reimburse the authority for a portion of the tax credits received by the anchor institution, as detailed in the tax credit agreement entered into pursuant to section 39 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. In order to facilitate the creation of new partnerships with anchor institutions, the authority shall publish on the authority's website a list of names and contact information for each anchor institution that has submitted an application pursuant to this section.

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37. (New section)a. Prior to July 1, 2027, an anchor institution seeking a tax credit pursuant to the program shall submit an application to the authority in a form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall accept and certify applications for tax credits during the award rounds established pursuant to section 38 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The authority shall not consider an application for a community-anchored project unless the anchor institution submits, with the application, a letter evidencing support for the community-anchored project from the governing body of the municipality in which the community-anchored project is located.

c. The authority shall review the project costs for a proposed community-anchored project and evaluate and validate the underlying financial structure proposed by the anchor institution. The authority shall conduct a State fiscal impact analysis to ensure that the overall value of tax credits provided to the community-anchored project will result in net benefits to the State, taking into account the current and deferred returns to the authority and the amount of tax credits to be reimbursed to the authority. The authority shall assess the cost of these reviews to the applicant. An anchor institution shall pay to the authority the full amount of the direct costs of an analysis concerning the anchor institution's application for tax credits that a third party retained by the authority performs, if the authority deems such retention to be necessary.

d. If at any time during the eligibility period the authority determines that an anchor institution made a material misrepresentation on the program application, the anchor institution shall forfeit the tax credit associated with that application.

38. (New section)a. The authority shall award tax credits under the program through a competitive application process consisting of up to two award rounds each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website.

b. (1) The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for community-anchored projects that satisfy the criteria set forth in sections 36 and 37 of P.L. , c. (C.) (pending before the Legislature as this bill) in a given award round shall be ranked on the basis of a scoring system developed by the authority through regulations adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Prior to the

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commencement of an award round, the authority shall determine the minimum score for the award round that an anchor institution must attain to be eligible for a tax credit.

(2) The authority may establish different criteria for community-anchored projects that are located in a New Jersey State opportunity zone and community-anchored projects that are primarily designed to result in the economic expansion of a targeted industry in this State.

c. The scoring system developed by the authority pursuant to subsection b. of this section shall assess applications for tax credits based on the following competitive criteria, which shall include, but shall not be limited to:

(1) the amount of tax credit requested by the anchor institution compared to the overall cost of the community-anchored project, along with the amount of the tax credit that is to be reimbursed to the State by the end of the commitment period, the amount of the tax credit, if any, that will not be reimbursed to the State, and the proposed terms and structure for the authority's investment in the project, including applicable current and deferred returns;

(2) the financial benefit of the community-anchored project to the community in which the community-anchored project will be located;

(3) apprenticeships or workforce programs to be offered because of the community-anchored project;

(4) the ability of the community-anchored project to absorb and adapt to changing environmental conditions and deliver its objectives;

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

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

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

(8) the extent of economic and related social distress in the municipality and the immediate area surrounding the community-anchored project;

(9) the extent to which the community-anchored project provides for the development of workforce housing;

(10) the extent to which the community-anchored project constitutes the expansion of the anchor institution to different areas of the State;

(11) the extent to which the community-anchored project provides for infrastructure, parking, retail, green space, or other public amenities creating a mixed-use community-anchored project;

(12) the inclusion of a qualified business accelerator or incubator facility as a part of the community-anchored project;

(13) the length of the commitment period for the community-anchored project;

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(14) the quality and number of new full-time jobs that will be created by the anchor institution or any partner business at the community-anchored project; and

(15) the quality and number of existing full-time jobs that will be retained by the anchor institution or a partner business in the State as a result of completing the community-anchored project, with the criteria specifying, in scoring the application, that the retention of an existing full-time job shall be given not more than one-third the weight of a new full-time job of a similar quality.

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

e. Prior to the award of a tax credit to an anchor institution to be converted into an authority investment in a community-anchored project, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority as to whether the anchor institution, along with any partner business identified in a program application, is in good standing with the respective department. Provided that all parties included under the application are in good standing, the authority shall allocate tax credits to community-anchored projects according to the community-anchored project's score and until either the available tax credits are exhausted or all community-anchored projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible community-anchored projects, a community-anchored project may be offered partial funding.

f. Applications that do not receive the minimum score established by the authority for that award round shall not receive further consideration for a tax credit by the authority in that award round; however, an anchor institution may revise or complete a new application to be submitted in a subsequent award round.

g. If an anchor institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.

39. (New section) a. Following approval and selection of an application pursuant to sections 37 and 38 of P.L. , c (C.) (pending before the Legislature as this bill), the authority shall enter into a tax credit agreement with the anchor institution. The chief executive officer of the authority shall negotiate the terms and conditions of the tax credit agreement on behalf of the State.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the anchor institution for

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conversion into an authority investment and specify the duration of the eligibility period, which shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the community-anchored project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 38 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the anchor institution and any partner business provides executed financing commitments to the authority and a verification of the anchor institution's projected cash flow at the time of certification that the project is completed;

(2) specify the length of the commitment period for the community-anchored project, and the terms by which the anchor institution shall provide current or deferred returns to the authority and reimburse, to the amount specified in the tax credit agreement, the authority for the value of the tax credits awarded to the anchor institution;

(3) allow the anchor institution to reimburse the authority for the tax credits in the amount specified in the tax credit agreement at any time within the commitment period, but shall require such reimbursement to occur if the community-anchored project is sold before the end of the commitment period;

(4) specify amounts of returns to be retained by the anchor institution for capital reserves, programming, or other purposes;

(5) identify the value of any monetary or financial benefit offered or provided by the anchor institution to any partner business that works with the anchor institution to complete and operate the community-anchored project;

(6) identify any benefits created by the anchor institution for a partner business through equity investment in or debt-financing of a community-anchored project and specify the formula by which such benefits are passed through to a partner business;

(7) specify that the authority or the State may purchase tax credits offered for sale by an anchor institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(8) at a minimum, require an anchor institution to provide oversight of the community-anchored project through ongoing reporting by a partner business to the anchor institution, and subsequent ongoing reporting by the anchor institution to the authority; and

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(9) specify other measures through which the authority shall ensure rigorous oversight of outstanding tax credit investments, and, in the event that an anchor institution fails to meet its obligations under the tax credit agreement or any program requirement, establish the right of the authority to assume direct oversight of any or all projects for which the anchor institution has entered into investment agreements and require the anchor institution to pursue any remedies it may have against a partner business.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury demonstrating that the anchor institution and any partner business are in good standing with that department and the tax credit agreement shall include a provision that the anchor institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement.

e. An anchor institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The anchor institution, or an authorized agent of the anchor institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

40. (New section) a. Up to the limits established in subsection b. of this section and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the community-anchored project, or upon any other event evidencing project completion as set forth in the tax credit agreement, an anchor institution of an approved community-anchored project shall be awarded a base tax credit of \$5,000,000 for conversion into an authority investment in the community-anchored project.

b. An anchor institution may be allowed a tax credit in excess of the base amount, if approved by the authority, provided, however, the total tax credit allowed per community-anchored project shall not exceed \$100,000,000.

41. (New section) a. An anchor institution that is awarded a tax credit under sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the anchor institution is aware of any condition, event, or act that would cause the anchor institution not to be in compliance with the tax credit agreement or the provisions of sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The anchor institution, or an

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authorized agent of the anchor institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

b. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the anchor institution and the Director of the Division of Taxation in the Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the anchor institution for conversion into an authority investment in the community-anchored project, that the anchor institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 42 of P.L. , c. (C.) (pending before the Legislature as this bill); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the community-anchored project, if that use is in accordance with rules and regulations adopted by the authority, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the anchor institution and the authority to provide the anchor institution with a tax credit transfer certificate, as described in section 42 of P.L. , c. (C.) (pending before the Legislature as this bill), or a tax credit certificate for the value awarded by the authority for that year that the anchor institution may use as provided in paragraph (1) of this subsection b. and in accordance with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.

42. (New section) a. An anchor institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the anchor institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, in the privilege period during which the anchor institution receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The anchor institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the anchor institution of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to an anchor institution by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 32 through 42 of P.L. , c. (C.) (pending before the

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Legislature as this bill) and any other terms and conditions that the director may prescribe.

c. A purchaser or assignee of a tax credit transfer certificate pursuant to this section may make any subsequent transfers, assignments, or sales of a tax credit transfer certificate for an amount to be negotiated with a subsequent purchaser or assignee.

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

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

43. (New section) Sections 43 through 47 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the “New Jersey Ignite Act.”

44. (New section) As used in sections 43 through 47 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

“Authority commitment period” means the period of two, four, or six months for which the authority commits to provide a start-up rent grant for the payment of rent in a collaborative workspace

“Collaborative workspace” means a business facility certified pursuant to section 46 of P.L. , c. (C.) (pending before the Legislature as this bill), located in this State, developed to provide flexible workspaces for early stage start-up businesses and designed to encourage community and collaboration within an inter-connected environment in which multiple start-up businesses have access to shared workplace accommodations and community events.

“Collaborative workspace commitment period” means a period of months equal to one-half the number of months of the authority commitment period.

“Community event” means an event hosted by a collaborative workspace and accessible to start-up tenant businesses, without charge, organized to support the innovation ecosystem at the collaborative workspace, including, but not limited to, events such as meet-ups, speaker series, and office hours for lawyers, accountants, consultants, or investors.

“Director” means the Director of the Division of Taxation in the Department of the Treasury.

“Early stage technology or life science business” means a business with at least one full-time employee in the State and fewer than 10 employees overall and with less than \$1,000,000 in gross sales over the 12-month period immediately prior to submitting an application for tenancy at a collaborative workspace that operates within a

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qualifying industry. To be considered an “early stage technology or life science business” the earliest date of formation for the business must have been not more than three years prior to utilizing or renting space in, or access to, the collaborative workspace under the program, and the business shall not have previously utilized or rented space in, or access to, another collaborative workspace in this State.

“Grant agreement” means an agreement between the authority and a collaborative workspace finalizing the terms and conditions of the collaborative workspace’s participation in the program.

“Program” means the New Jersey Ignite Program established pursuant to section 45 of P.L. , c. (C.) (pending before the Legislature as this bill).

Qualifying industry” means the advanced computing, advanced materials, biotechnology, electronic device technology, information technology, food technology, life sciences, medical device technology, health care technology, logistics technology, mobile communications technology, agriculture technology, and renewable energy industries.

“Start-up rent grant” or “grant” means a grant provided by the authority to a collaborative workspace for the rent that would otherwise be due to the collaborative workspace from a start-up tenant business for the period of the authority commitment period.

“Start-up tenant business” means an early stage technology and life science business that is registered to do business in New Jersey, rents space in, or access to, a collaborative workspace under the program, and enters into an agreement with the collaborative workspace and the authority to rent space or access to the collaborative workspace for an agreed upon period, which shall include the authority commitment period, collaborative workspace commitment period, and start-up tenant business commitment period.

“Start-up tenant business commitment period” means a period of months equal to the sum of the authority commitment period and the collaborative workspace commitment period.

45. (New section) The New Jersey Ignite Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The purpose of the program shall be to foster early stage technology or life science businesses and helping those businesses to overcome barriers to commercial success by providing rent support grants for start-up tenant businesses that rent space or access to collaborative workspaces certified pursuant to section 46 of P.L. , c. (C.) (pending before the Legislature as this bill).

46. (New section) a. The owner of a business facility may apply to the authority to have the business facility certified as a collaborative workspace under the program. The authority shall certify a business facility as a collaborative workspace if the applicant commits to paying one month’s rent for a start-up tenant

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business at the business facility for every two months of rent to be paid by the authority as a start-up rent grant. In order to be for certification as a collaborative workspace, a business facility shall:

- (1) be located in this State;
- (2) be developed to provide flexible workspaces for early stage start-up businesses;
- (3) be designed to encourage community and collaboration within an inter-connected environment in which multiple start-up businesses have access to shared workplace accommodations;
- (4) be committed to hosting at least eight community events at the business facility each year;
- (5) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury;
- (6) possess a business registration certificate issued by the Division of Revenue in the Department of the Treasury;
- (7) have received rent from at least five unique tenant businesses, in which the owner and operator of the business facility do not have a direct financial interest, over the two years immediately preceding the submission of the application for certification pursuant to this section;
- (8) be subject to ongoing operating costs, such a rent, mortgage payments, or internal corporate charge-backs, at the time of application for certification pursuant to this section;
- (9) offer at least on type of workspace at the business facility for rent by early stage technology or life science businesses;
- (10) charge rent to tenants; and
- (11) certify that any rent charged to a start-up tenant business is to be market-rate.

b. The owner of a collaborative workspace seeking to participate in the program shall submit an application in such form as required by the authority. The application shall include all information as the authority shall determine is necessary to administer the program.

c. The authority shall review and may approve an application for certification to participate in the program and shall enter into a grant agreement with the owner of the collaborative workspace.

d. The authority shall provide the start-up rent grant amount pursuant to a series of scheduled payments as the authority may determine, subject to the relevant grant agreement, and the no less than annual submission of proof by the owner or operator of a certified collaborative workspace of adherence to the grant agreement by the collaborative workspace and the start-up business tenants renting space or access to the collaborative workspace, in a manner to be determined by the authority. A collaborative workspace that fails to comply with a start-up rent grant agreement shall repay any grant amount received and, if so determined by the authority, shall pay a penalty not to exceed 10 percent of the grant amount.

47. (New section) The authority shall promulgate rules and regulations necessary for the effective implementation of sections 43

through 47 of P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the authority may adopt, immediately upon filing with the Office of Administrative Law, such regulations as are necessary to implement the provisions of sections 45 through 49 of P.L. , c. (C.) (pending before the Legislature as this bill), which shall be effective for a period not to exceed 12 months following enactment, and may thereafter be amended, adopted, or readopted by the authority in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

48. (New section) Sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "Historic Property Reinvestment Act."

49. (New section) As used in sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill):

"Cost of rehabilitation" means the consideration given, valued in money, whether given in money or otherwise, for the materials and services which constitute the rehabilitation.

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

"New Jersey S corporation" means the same as the term is defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

"Officer" means the State Historic Preservation Officer or the official within the State designated by the Governor or by statute in accordance with the provisions of the "National Historic Preservation Act," Pub.L.89-665 (16 U.S.C. s.470 et seq.), to act as liaison for the purpose of administering historic preservation programs in the State.

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

"Principal residence" means a one- or two-family homestead actually and continually occupied by an individual as the individual's permanent residence, as distinguished from a vacation home, property owned and rented or offered for rent by the individual, and other secondary real property holdings, except that the permanent residence of military personnel called to active duty shall be considered to be a principal residence so long as the individual maintains ownership of the residence for which the credit is sought.

"Property" means a structure, including its site improvements and landscape features, assessed as real property, and used for a residential purpose, residential rental purpose, commercial purpose, or any combination thereof.

"Qualified property" means a property located in the State of New Jersey that is:

(a) (i) individually listed, or located in a district listed on the National Register of Historic Places in accordance with the "National Historic Preservation Act," Pub.L.89-665 (16 U.S.C. s.470 et seq.),

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or on the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or individually designated, or located in a district designated, by the Pinelands Commission as a historic resource of significance to the Pinelands in accordance with the Pinelands comprehensive management plan adopted pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

(ii) if located within a district, certified by either the officer or the Pinelands Commission, as appropriate, as contributing to the historic significance of the district; or

(b) (i) individually identified or registered, or located in a district composed of properties identified or registered, for protection as significant historic resources in accordance with criteria established by a municipality in which the property or district is located if the criteria for identification or registration has been approved by the officer as suitable for substantially achieving the purpose of preserving and rehabilitating buildings of historic significance within the jurisdiction of the municipality, and

(ii) if located within a district, certified by the officer as contributing to the historic significance of the district.

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

"Rehabilitation of the interior of the qualified property" means the repair or reconstruction of the structural or substrate components and electrical, plumbing, and heating components within the interior of a qualified property.

"Selected rehabilitation period" means a period of 24 months if the beginning of such period is chosen by the business entity during which, or parts of which, a rehabilitation is occurring or a period of 60 months if a rehabilitation is reasonably expected to be completed in distinct phases set forth in written architectural plans and specifications completed before or during the physical work on the rehabilitation.

50. (New section) a. An individual, upon successful application to the officer, shall be allowed a credit against the tax otherwise due pursuant to N.J.S.54A:1-1 et seq. for 25 percent of the cost of rehabilitation paid by the individual for the rehabilitation of a qualified property that the individual owns and occupies as the individual's principal residence for a period of twelve consecutive months following the completion of the rehabilitation, provided that (1) the cost of rehabilitation is in an amount not less than 50 percent of the equalized assessed value of the structure for local real estate tax purposes as indicated on the most recent property tax bill for the qualified property prior to the start of the rehabilitation, and that (2) for the purpose of calculating the amount of the total credit, no more

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than 60 percent of the total cost of rehabilitation shall be attributable to interior rehabilitation.

If more than one individual owns a qualified property and at least one of the owners occupies the qualified property as the owner's principal residence for a period of twelve consecutive months following the completion of the rehabilitation, each owner shall be allowed a credit against the tax otherwise due pursuant to N.J.S.54A:1-1 et seq. for 25 percent of the cost of rehabilitation paid by that owner for the rehabilitation of a qualified property, provided that (1) the total cost of rehabilitation of the qualified property borne by all owners is in an amount not less than 50 percent of the equalized assessed value of the structure for local real estate tax purposes as indicated on the most recent property tax bill for the qualified property prior to the start of the rehabilitation, and that (2) for the purpose of calculating the amount of the total credit, no more than 60 percent of the total cost of rehabilitation of the qualified property borne by all owners shall be attributable to interior rehabilitation.

b. The amount of the credit allowable under this section shall be applied against the tax otherwise due pursuant to N.J.S.54A:1-1 et seq. during the taxable year in which the officer issues the tax credit certification to be attached by the individual to the individual's tax return. The director shall determine the order in which the credit allowed under this section and any other credit permitted by law shall be applied against the individual's amount of tax due. If the amount of the credit exceeds the individual's tax liability, that amount of excess shall not be considered an overpayment for the purposes of N.J.S.54A:9-7, but instead may be carried over, if necessary, to the four taxable years following the taxable year for which the credit was allowed.

c. The cumulative amount of credit granted under this section for the cost of rehabilitation of a specific qualified property shall not exceed \$25,000 within any ten-year period.

51. (New section) a. A business entity, upon successful application to the officer, shall be allowed a credit against the tax otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et. seq.), or the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et. seq., for 25 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of a qualified property, if the cost of rehabilitation during a business entity's selected rehabilitation period is not less than the greater of (1) the adjusted basis of the structure of the qualified property used for federal income tax purposes as of the beginning of the business entity's selected rehabilitation period, or (2) \$5,000. The amount of the credit claimed in any accounting or privilege period shall not reduce the amount of the tax liability to less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

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b. The amount of credit granted, or recognized through a tax credit transfer certificate acquired pursuant to section 52 of P.L. , c. (C.) (pending before the Legislature as this bill), to a partnership, limited liability company, New Jersey S corporation, multiple owners, or qualifying long-term leaseholders of the property, shall be passed through to the partners, members, shareholders, or owners respectively, either in proportion to their ownership interest in the entity or as the partners, members, shareholders, or owners mutually agree as provided in an executed document detailing the alternate distribution method.

c. A business entity may claim a credit under this section during the accounting or privilege period (1) in which it makes the final payment for the cost of the rehabilitation if the business entity has chosen a selected rehabilitation period of 24 months, or (2) in which a distinct project phase of the rehabilitation is completed if the business entity has chosen a selected rehabilitation period of 60 months. The credit may be claimed against any tax liability otherwise due after any other credits permitted pursuant to law have been applied. The amount of credit claimed in an accounting or privilege period that cannot be applied for that accounting or privilege period due to limitations in this section may be carried over, if necessary, to the nine accounting or privilege periods following the accounting or privilege period for which the credit was allowed.

52. (New section) a. The officer shall, in cooperation with the director, establish and administer a gross income tax credit transfer certificate program, a corporation business tax credit transfer certificate program, and an insurance premiums tax credit transfer certificate program to enable individuals and business entities with unused, otherwise allowable amounts of tax credits issued pursuant to sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill) to exchange these credits, in whole or in part, for private financial assistance prior to the expiration of the tax credit.

A certificate issued by the officer shall include a statement waiving the rights of the individual to whom or the business entity to which the tax credit has been granted to claim that amount of the credit against any tax liability.

b. An individual or business entity holding an unused, otherwise allowable tax credit issued pursuant to sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill) may apply to the officer for a tax credit transfer certificate pursuant to subsection a. of this section. Upon receipt thereof, the individual or the business entity may sell or assign, in full or in part, the tax credit transfer certificate to another taxpayer in exchange for private financial assistance to be provided by the purchaser or assignee of the tax credit transfer certificate to the seller thereof. The purchaser or assignee of the tax credit transfer certificate may apply the face value of the tax credit transfer certificate acquired against the

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purchaser's or assignee's applicable tax liability by claiming the tax credit on the purchaser's or assignee's gross income tax, corporation business tax or insurance premiums tax return with the corresponding tax credit transfer certificate accompanying the tax return.

53. (New section) a. The officer shall, in consultation with the director, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as the officer deems necessary to administer the provisions of sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill), including but not limited to rules establishing administrative fees to implement the provisions of sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill) and the setting of an annual application submission date.

b. For every tax credit allowed pursuant to sections 50 and 51 of P.L. , c. (C.) (pending before the Legislature as this bill), the officer shall certify to the director the total cost of rehabilitation; that the property meets the definition of qualified property; that the rehabilitation has been completed in substantial compliance with the requirements of the Secretary of the Interior's Standards for Rehabilitation pursuant to section 67.7 of title 36, Code of Federal Regulations; and, if applicable, that no more than 60 percent of the cost of rehabilitation which will be used to calculate the credit is for the rehabilitation of the interior of the qualified property. The individual or business entity shall attach the certification to the tax return on which the individual or business entity claims the credit.

c. The total amount of credits approved by the officer pursuant to sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill) shall not exceed \$15,000,000 in the first fiscal year, \$25,000,000 in the second fiscal year, \$40,000,000 in the third fiscal year, and \$50,000,000 in the fourth fiscal year and thereafter.

The officer shall devise criteria for allocating tax credit amounts if the approved amounts combined exceed the total amount in each fiscal year, including rules that allocate over multiple fiscal years a single credit amount granted in excess of \$2,000,000. The criteria shall include a project's historic importance, positive impact on the surrounding neighborhood, economic sustainability, geographic diversity, and consistency with Statewide growth and development policies and plans.

d. In any fiscal year, not less than 25 percent of the total monetary amount of tax credits approved pursuant to sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be granted for the rehabilitation of qualified properties pursuant to section 50 of P.L. , c. (C.) (pending before the Legislature as this bill), and not less than 65 percent of the total monetary amount of tax credits approved pursuant to sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be granted for the rehabilitation of qualified

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properties pursuant to section 51 of P.L. , c. (C.) (pending before the Legislature as this bill). Any unallocated or recaptured portion of the tax credits during any year pursuant to section 50 or 51 of P.L. , c. (C.) (pending before the Legislature as this bill), may be carried over and reallocated in succeeding years.

54. (New section) a. The officer, in collaboration with the director, shall adopt rules for the recapture of an entire or partial tax credit amount allowed under sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill). The rules shall require the officer to notify the director of the recapture of an entire or partial tax credit amount. The recapture of funds shall be subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. and recaptured funds shall be deposited in the General Fund of the State.

b. If, before the end of five full years after the completion of the rehabilitation of the qualified property, an individual who or a business entity that has been allowed a tax credit pursuant to section 50 or 51 of P.L. , c. (C.) (pending before the Legislature as this bill) modifies the architectural components of the rehabilitated qualified property so that it ceases to meet the requirements for the rehabilitation of a qualified property as defined in sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill), then the tax liability of the individual or business entity for that taxable year or accounting or privilege period shall be increased by the following percentage of that portion of the original tax credit amount that the officer now disallows:

(1) 100 percent of the disallowed tax credit amount if the action causing the disallowance occurs within one full year after the rehabilitation's completion;

(2) 80 percent of the disallowed tax credit amount if the action causing the disallowance occurs between the first and second full year after the rehabilitation's completion;

(3) 60 percent of the disallowed tax credit amount if the action causing the disallowance occurs between the second and third full year after the rehabilitation's completion;

(4) 40 percent of the disallowed tax credit amount if the action causing the disallowance occurs between the third and fourth full year after the rehabilitation's completion; and

(5) 20 percent of the disallowed tax credit amount if the action causing the disallowance occurs between the fourth and fifth full year after the rehabilitation's completion.

c. In the case of a business entity that has chosen a selected rehabilitation period of 60 months, if the architectural plans change in the course of the phased rehabilitation project so that the rehabilitation of the qualified property would, upon the rehabilitation's completion, no longer qualify for a tax credit pursuant to the requirements of sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill), then the business entity's tax liability for that accounting or privilege period

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shall be increased by the full amount of the tax credit that the officer had previously granted upon the completion of a distinct prior project phase that the business entity has applied against its tax liability in a prior accounting or privilege period. Any portion of the tax credit that the business entity has not yet used at the time of the disallowance by the officer shall be deemed void.

55. (New section) On or before December 31 of the fourth year following the effective date of sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill), the officer, in consultation with the director, shall prepare and submit a written report regarding the number and total monetary amount of tax credits granted for the rehabilitation of qualified properties pursuant to sections 50 and 51 of P.L. , c. (C.) (pending before the Legislature as this bill), the geographical distribution of the credits granted, a summary of the tax credit transfer program established pursuant to section 52 of P.L. , c. (C.) (pending before the Legislature as this bill), an evaluation of the effectiveness of the tax credits provided pursuant to sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill) in promoting the rehabilitation of historic properties, recommendations for administrative or legislative changes to increase the effectiveness of the program, and any other information that the officer or the director may deem useful or appropriate. This report shall be submitted to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

56. (New section) Sections 56 through 71 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the “New Jersey Innovation Evergreen Act.”

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72. (New section) Sections 72 through 82 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the “Brownfields Redevelopment Incentive Program Act.”

73. (New section) As used in sections 72 through 82 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

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

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

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

“Department” means the Department of Environmental Protection.

“Developer” means any person that enters or proposes to enter into a redevelopment agreement with the authority pursuant to the provisions of section 76 of P.L. , c. (C.) (pending before the Legislature as this bill).

“Director” means the Director of the Division of Taxation in the Department of the Treasury.

“Licensed site remediation professional” means an individual who is licensed by the Site Remediation Professional Licensing Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the

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

“Program” means the Brownfields Redevelopment Incentive Program established by section 74 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

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

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

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

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that any contaminants present at the site or that have migrated from the site have been remediated in accordance with applicable remediation regulations, and all applicable permits and authorizations have been obtained.

74. (New section) The Brownfields Redevelopment Incentive Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The purpose of the program is to compensate developers of redevelopment projects located on brownfield sites for remediation costs. To implement this purpose, the authority shall issue tax credits. The total value of tax credits approved by the authority shall not exceed an aggregate annual limit of \$20,000,000 for a calendar year. For the purpose of determining the aggregate value of tax credits approved in a calendar year, a tax credit shall be deemed to have been approved at the time the director allows a tax credit to a developer pursuant to section 79 of P.L. , c. (C.) (pending before the Legislature as this bill) following completion of the redevelopment project.

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

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

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

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

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

(4) a project financing gap exists; and

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

c. A redevelopment project that received a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) shall not be eligible to apply for a tax credit under the program. If the authority receives an application and supporting documentation for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), then the authority may consider

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the application and award an incentive grant to a developer, provided that the authority shall take final action on all applications for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) no later than July 1, 2019. No applications shall be submitted pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

d. The authority, in consultation with the department, may impose additional requirements upon an applicant through rule or regulation adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority or the department determines the additional requirements to be necessary and appropriate to effectuate the purposes of sections 72 through 82 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

f. The authority shall award tax credits to redevelopment projects until either the available tax credits are exhausted or all redevelopment projects that are eligible for a tax credit pursuant to the provisions of sections 72 through 82 of P.L. , c. (C.) (pending before the Legislature as this bill) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a developer in accordance with the provisions of subsection a. of section 79 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority may offer the developer a value of the tax credit below the amount provided for in subsection a. of section 79 of P.L. , c. (C.) (pending before the Legislature as this bill).

g. A developer shall pay to the authority or to the department, as appropriate, the full amount of the direct costs of an analysis concerning the developer's application for a tax credit, which a third

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party retained by the authority or department performs, if the authority or department deems such retention to be necessary.

76. (New section) a. Following approval of an application by the board, but prior to the start of any remediation or clean up at the site of the redevelopment project, the authority shall enter into a redevelopment agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the redevelopment agreement on behalf of the State.

b. The redevelopment agreement shall specify the amount of the tax credit to be awarded to the developer, the date on which the developer shall complete the remediation, and the projected project remediation cost. The agreement shall require the developer to submit progress reports to the authority and to the department every six months pursuant to section 78 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

(3) the developer pays each worker employed to perform remediation work or construction work at the redevelopment project not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

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

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

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

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

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

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

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

a. enter into a memorandum of agreement or other oversight document with the Commissioner of Environmental Protection in

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accordance with the provisions of section 37 of P.L.1997, c.278 (C.58:10B-29) following the execution of a redevelopment agreement; or

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

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

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

- (1) the redevelopment project is complete;
- (2) the developer complied with the requirements of section 78 of P.L. , c. (C.) (pending before the Legislature as this bill), including the requirements of any memorandum of agreement or other oversight document that the developer may have executed with the Commissioner of Environmental Protection pursuant to that section; and
- (3) the remediation costs were actually and reasonably incurred.

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

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

certifications and findings pursuant to this section.

c. A developer shall apply the credit awarded against the developer's liability for the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for the privilege period during which the director awards the developer a tax credit pursuant to subsection a. of this section. A developer shall not carry forward any unused credit. Credits awarded to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the director accompanied by any additional information as the director may prescribe.

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

80. (New section) a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, during the privilege period in which the director allows the developer a tax credit pursuant to section 79 of P.L. , c. (C.) (pending before the Legislature as this bill), in lieu of the developer being allowed to apply any amount of the tax credit against the developer's State tax liability. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) , sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate provided to the developer shall include a statement waiving the developer's right to claim the credit that the developer has elected to sell or assign.

b. The developer shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 79 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other terms and conditions that the director may

prescribe.

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

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

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

81. (New section) Beginning the year next following the year in which sections 72 through 82 of P.L. , c. (C.) (pending before the Legislature as this bill) take effect and every two years thereafter, a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant to an agreement executed between the State college or university and the authority, prepare a report on the implementation of the program, and submit the report to the authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial report required under this section shall include a description of each redevelopment project receiving a tax credit under the program, a detailed analysis of the consideration given in each project to the factors set forth in sections 75 and 76 of P.L. , c. (C.) (pending before the Legislature as this bill), the return on investment for incentives awarded, the redevelopment project's impact on the State's economy, and any other metrics the State college or university determines are relevant based upon national best practices. The authority shall prepare a written response to the report, which the authority shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

82. (New section) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority, in consultation with the Commissioner of Environmental Protection, may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer and commissioner deem necessary to implement the provisions of sections 72 through 82 of P.L. , c. (C.) (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer, in consultation with the Commissioner of Environmental Protection, shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

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83. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 30 percent of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, [2023] 2028, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey, or the qualified film production expenses of the taxpayer during the privilege period exceed \$1,000,000 per production;

(b) principal photography of the film commences within the earlier of 180 days from the date of the original application for the tax credit, or 150 days from the date of approval of the application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an approved logo approved by the [Commission] commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of [this] subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified film production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County.

(3) Notwithstanding the provisions of paragraphs (1) or (2) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be increased by a total of 5 percent of the qualified film production expenses of the taxpayer during a privilege period if the taxpayer participates in an internship program with an educational institution during that privilege period.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an

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amount equal to 20 percent of the qualified digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, [2023] 2028, provided that:

(a) at least \$2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of [this] subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 25 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer

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being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of \$75,000,000 in fiscal year 2019 [and] , but shall not be limited in each fiscal year thereafter prior to fiscal year [2024] 2029 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

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(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in fiscal year 2019 [and] but shall not be limited in each fiscal year thereafter prior to fiscal year [2024] 2029 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of credits available.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. The report shall be prepared by the independent certified public accountant pursuant to agreed upon procedures prescribed by the authority and the director [;] and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

g. A taxpayer shall withhold from each payment to a loan out company or to an independent contractor an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this

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State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld.

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound, and video content. "Digital media content" [does] shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Educational institution" means any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education, or other post-secondary school, as determined by the commission.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, talk show, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show owns, leases, or otherwise occupies a production facility of no less than 20,000 square feet of real property for a minimum term of [twenty-four (24)] 24 months, and invests no less than \$3,000,000 in such a facility

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within a designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted business district established pursuant to section 3 of P.L.2001, c.347 (C.52:27H-66.2). "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of \$500,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

"Loan out company" means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" [does] shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

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

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

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"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include but [shall] not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be ¹deemed¹ a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required [by] pursuant to subsection g. of this section. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be ¹deemed¹ "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include but [shall] not be limited to: wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payment made to a loan out company or to an independent contractor shall not be ¹deemed¹ a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required [by] pursuant to subsection g. of this section. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

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"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

i. A business that is not a "taxpayer" as defined and used in the "Corporation Business Tax Act (1945)" P.L.1945, c.162 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit under this section, but is a business entity that is classified as a partnership for federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company formed under the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business in this State as a foreign limited liability company, with one member, and is wholly owned by the business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section.
(cf: P.L.2018, c.56, s.1)

84. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to read as follows:

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30 percent of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, [2023] 2028, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey, or the qualified film production expenses of the taxpayer during the taxable year exceed \$1,000,000 per production;

(b) principal photography of the film commences within the earlier of 180 days from the date of the original application for the tax credit, or 150 days from the date of approval of the application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the [Commission] commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

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(2) Notwithstanding the provisions of paragraph (1) of [this] subsection a. of this section¹ to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of the qualified film production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

(3) Notwithstanding the provisions of paragraphs (1) or (2) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. shall be increased by a total of 5 percent of the qualified film production expenses of the taxpayer during a taxable year if the taxpayer participates in an internship program with an educational institution during that taxable year.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, [2023] 2028, provided that:

(a) at least \$2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of [this] subsection b. of this section¹ to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or

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exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection or under other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

d. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

A business entity that is not a gross income "taxpayer" as defined and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and therefore is not directly allowed a credit under this section, but otherwise meets all the other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross income taxpayers pursuant to the other requirements of this subsection.

e. A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

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et seq., or the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under [this] subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of \$75,000,000 in fiscal year 2019 [and] , but shall not be limited in each fiscal year thereafter prior to fiscal year [2024] 2029 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of \$10,000,000 in fiscal year 2019 [and] , but shall not be limited in each fiscal year thereafter prior to fiscal year [2024] 2029 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax

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imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection b. of this section and subsection b. of section [2 of P.L.2018, c.56 (C.54:4-12b)] 1 of P.L.2018, c. 56, s.1 (C.54:10A-5.39b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section [2 of P.L.2018, c.56 (C.54:4-12b)] 1 of P.L.2018, c.56, s.1 (C.54:10A-5.39b) are not in excess of the amount of credits available.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. The report shall be prepared by the independent certified public accountant pursuant to agreed upon procedures prescribed by the authority and the director [;] , and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company or to an independent contractor an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title

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54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld.

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound, and video content. "Digital media content" [does] shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Educational institution" means any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education, or other post-secondary school, as determined by the commission.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, talk show, sports event, or reality show, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

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

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who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of \$500,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

"Loan out company" means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" [does] shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

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

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include but [shall] not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the

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withholding required [by] pursuant to subsection h. of this section. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include but [shall] not be limited to: wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

(cf: P.L.2018, c.56, s.2)

85. Section 4 of P.L.2018, c.56 is amended to read as follows:

4. [a.] A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c. 162 (C.54:10A-5) in an amount equal to 2 percent of the qualified film or digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, [2023] 2028, provided that:

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[(a)] a. the application is accompanied by a diversity plan outlining specific goals, which may include advertising and recruitment actions, for hiring minority persons and women;

[(b)] b. the director and the authority have approved the plan as meeting the requirements established by the director and the authority; and

[(c)] c. the director and the authority have verified that the applicant has met or made good-faith efforts in achieving those goals.

The director and the authority shall adopt any rules necessary to implement this provision.

The application shall indicate whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with State colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of New Jersey residents who represent the diversity of the State population.

86. (New section) A business, in lieu of the business being allowed any amount of a tax credit against tax liability of the business, and in lieu of the business being allowed a tax credit transfer certificate, may request to sell to the Division of Taxation in the Department of the Treasury the amount of tax credits awarded to the business pursuant to sections 2 through 10 of P.L. , c. (C.) (pending before the Legislature as this bill), sections 11 through 23 of P.L. , c. (C.) (pending before the Legislature as this bill), sections 32 through 42 of P.L. , c. (C.) (pending before the Legislature as this bill), and sections 48 through 55 of P.L. , c. (C.) (pending before the Legislature as this bill). The Director of the Division of Taxation in the Department of the Treasury may negotiate with a business to pay to the business up to 75 percent of the tax credit amount requested to be sold by the business to the Division of Taxation.

87. This act shall take effect immediately and section 50 shall apply to taxable years beginning on or after January 1 next following the date of enactment of this act, and section 51 shall apply to accounting or privilege periods beginning on or after July 1 next following the date of enactment of this act.

STATEMENT

The “New Jersey Economic Opportunity Act of 2019” establishes economic development programs to incentivize: (1) job creation and retention (Grow New Jersey 3.0 Program), (2) commercial and residential property redevelopment (Economic Redevelopment and Growth Program of 2019), (3) the location of supermarkets and grocery stores in certain food desert communities (Food Desert Relied Initiative), (4) economic development

partnerships with certain anchor institutions (New Jersey Community-Anchored Development Program), (5) growth of certain early-stage companies (New Jersey Ignite Program), (6) preservation of certain historic commercial and residential properties (Historic Property Reinvestment), (7) investment in innovation as a catalyst for economic growth (New Jersey Innovation Evergreen Program), (8) remediate and redevelop of brownfield sites (Brownfields Redevelopment Incentive Program), (9) production of certain films and digital media in the State, and (10) the sale of certain tax credits.

Grow New Jersey 3.0 Assistance Program

The bill establishes the Grow New Jersey 3.0 Assistance Program (program) under the jurisdiction of, and to be administered by, the New Jersey Economic Development Authority (EDA).

The purpose of the program is to encourage economic development and job creation, and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated outside of the State. To implement the purpose, the program is to provide tax credits to eligible businesses for an eligibility period not to exceed 10 years, based on commitments to make a capital investment in a qualified business facility and to create or retain certain full-time jobs in qualifying areas of the State. A business seeking tax credits under the program is required to maintain full-time jobs described in the incentive agreement for a period 1.5 times the length of the applicant's tax credit eligibility period. The incentive agreement is required to include certain provisions, including prevailing wage requirements for construction and building services at the qualified business facility.

To be eligible for tax credits pursuant to the bill a business's chief executive officer or equivalent officer is required to demonstrate and certify certain program information to the EDA at the time of program application. For a business to be eligible for tax credits under the program, the business is required to make a capital investment in a qualified business facility in a New Jersey State opportunity zone municipality or any other eligible area, as determined by the EDA, and to create or retain full-time jobs at the facility.

Under the bill, a New Jersey State opportunity zone means a municipality whose physical boundaries include a federal population census tract in this state that qualified as a low-income community pursuant to 26 U.S.C. s.45D, and was eligible to be nominated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

Under the program, a business seeking tax credits program is required to:

- (1) meet minimum capital investment thresholds related to the construction or rehabilitation of qualified business facilities; and
- (2) meet minimum thresholds for new or retained full-time jobs at the qualified business facility.

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The program establishes different minimum thresholds based on the type of business and the type of capital investment in the qualified business facility. For New Jersey State opportunity zone municipalities that meet the requirements of a New Jersey investment zone, the bill establishes lower minimum capital investment thresholds.

The bill specifies that a New Jersey investment zone is a municipality in this State with a municipal revitalization index distress score of at least 75, that is densely populated or that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of the bill, is subject to financial restrictions imposed pursuant to the Municipal Stabilization and Recovery Act of 2016, P.L.2016, c.4 (52:27BBBB-1) or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

Under the program, a capital investment that qualifies for the award of tax credits is also required to yield a net positive benefit. Under the bill, the EDA is required to enter into an incentive agreement with an eligible business prior to awarding tax credits. The incentive agreement is required to include certain information and commitments, as specified in the bill.

The total amount of the tax credit that an eligible business may be awarded for each new or retained full-time job shall be as set forth in the bill and the total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period. Under the bill, the annual base amount of tax credits for a qualified business facility in a New Jersey State opportunity zone municipality for each new or retained job is \$2,500 per year, with a lower base amount for a qualified business facility that is located in any other eligible area and higher base amounts for qualified business facilities that are used by a business in targeted industries that have collaborative research relationships with a doctoral university, qualified business facilities in New Jersey investment zone, and certain mega projects.

The bill establishes different criteria for bonuses that raise the tax credits awarded to a business above the base tax credit amount. Under the bill, bonuses for businesses that meet a specific criteria range from \$250 to \$5,000 per job, per year. The bill, however, establishes annual per-job caps and annual overall project caps on the amount of final tax credit awards, based on the type of business, type of project, and the location of the qualified business facility. The per-job caps range from \$7,000 to \$15,000 per job, per year. The project caps range from \$4,000,000 to \$35,000,000 per year. The bill also establishes an alternate tax credit option for businesses that create at least 35 new full-time jobs in a New Jersey investment zone.

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The bill also provides for the EDA's calculation of tax credits under the program, with calculations differing based on the nature of the relevant job and the location of the qualified business facility. The bill further provides for the forfeiture of tax credit awards in instances when the business fails to meet requirements of an incentive agreement.

For a business to be awarded a tax credit under the program, the business is required to submit its application for the program prior to July 1, 2025. The bill requires that a business awarded tax credits under the program provide and certify program information to the EDA annually. The bill also provides for the transferability of tax credits awarded pursuant to the program.

Economic Redevelopment and Growth Program of 2019

This bill establishes the Economic Redevelopment and Growth Program of 2019 (ERG 2019) to be administered by the EDA. ERG 2019 allows the EDA to award incentive grants and tax credits to developers of commercial and residential redevelopment projects, respectively, in incentive areas to supplement financing in an amount not to exceed a project financing gap. The bill provides additional incentives for certain transformative projects. An incentive area includes certain investment zones, municipalities in which the main campus of certain public research universities are located, and New Jersey State opportunity zone municipalities. Project financing gaps represent a part of the total redevelopment project cost for which the developer cannot find other financing. Under the bill, a New Jersey State opportunity zone means any municipality the incorporated a federal census tract that was eligible for nomination and designation as a federal opportunity zone pursuant to the federal "Tax Cuts and Jobs Act of 2017," Pub.L.115-97.

The bill requires eligible redevelopment projects built with program assistance to comply with minimum environmental and sustainability standards and affirmative action guidelines. The bill also requires that developers pay project construction and building services workers in accordance with prevailing wage standards.

The base amount of an incentive grant or tax credit awarded for redevelopment projects under ERG 2019 is 12 percent of the total redevelopment project cost. A developer may be allowed a tax credit or incentive grant worth up to 24 or 33.3 percent of the total redevelopment project cost if the developer meets certain bonus criteria. Under the bill, redevelopment projects located in certain municipalities that meet certain residential and mix-use requirements are eligible to receive tax credits worth up to 40 percent of the total redevelopment project cost.

The bill requires the EDA to award incentive grants and tax credits through an ongoing application, review, and award process. There is a \$500,000,000 overall cap for the award of tax credits for residential projects, with an additional \$100,000,000 reserved for special affordable housing projects, but there is no annual or overall program

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cap on the award of incentive grants for commercial projects. Under the bill, a developer is only eligible for incentive grants in an amount based on the increase of State revenues realized from the commercial project. The bill allows tax credit recipients to apply to the Director of Taxation for a tax credit transfer certificate; provided the sale or assignment of any amount of a tax credit transfer certificate equals 85 percent or more of the transferred credit amount.

Further, the bill requires a State college or university to prepare a biennial report on the implementation of ERG 2019. The EDA is required to respond to the report prepared by the State college or university. The bill requires the submission of both the report and the EDA's response to the Governor and the Legislature.

Food Desert Relief Initiative

The bill establishes the Food Desert Relief Initiative and requires the EDA to administer the initiative. The bill further requires the EDA, in consultation with the Department of Agriculture, to initially designate no more than 75 food desert communities in the State.

The program provides tax credits, grants, and loans to certain supermarkets and grocery stores that newly open in food desert communities, provided that each \$1 value of State tax credits, grants, and loans are matched with at least \$3 in investments and expenditures from all other sources. Under the initiative, the tax credits, grants, and loans may be used to assist a grocery store or supermarket with the project costs of establishing a grocery store or supermarket in a food desert community, to mitigate any project financing gap, and to mitigate initial operating costs of the supermarket or grocery store. The program is limited to \$30,000,000 in tax credits, which the EDA may award to supermarkets or grocery stores, or which the EDA may sell to raise funds to provide grants and loans to qualifying supermarkets or grocery stores.

New Jersey Community-Anchored Development Program

The bill establishes the New Jersey Community-Anchored Development Program as a pilot program under the jurisdiction of the EDA to incentivize the expansion of targeted industries in certain areas of the State and the development in New Jersey State opportunity zones through the provision of tax credits to anchor institutions to be converted into authority investments in community-anchored projects in the State. The EDA is required to report on the program in the third and fifth years following enactment.

Under the bill, an anchor institution is required to be a governmental or nonprofit entity that is a comprehensive health care system, a public research university, a private research university, a major cultural institution, or an experienced nonprofit economic or community development entity. For a project to qualify for the receipt of tax credits under the program, the community-anchored project is required to be a capital project developed by an anchor institution or a partner business in a New Jersey State opportunity

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zone or in other specified areas of the State, but if the project is not located in a New Jersey State opportunity zone, the project is to be primarily designed to result in the economic expansion of a targeted industry in this State.

For the purposes of the bill, a New Jersey State opportunity zone is any census tract in the State that meets qualifications that mirror the specifications for an opportunity zone or a low-income community under federal tax law, and targeted industry includes any industry identified from time to time by the authority including initially, biotechnology, life sciences, pharmaceuticals, aeronautics, clean energy, advanced manufacturing, large-scale food and beverage production, advanced transportation and logistics, finance, financial technology, insurance, media, information technology, machine learning, and artificial intelligence.

The bill provides that anchor institutions may apply for tax credits under the program, and details the necessary components and demonstrations required pursuant to an application. Under the program, an anchor institution is permitted, as detailed in the bill, to sell tax credits received pursuant to the program or use the tax credits as collateral or as a financial instrument to provide for the financing of a community-anchored project. Under the bill, an anchor institution is required to submit an application prior to July 1, 2027 in order to receive a tax credit under the program.

The bill limits the award of tax credits under the program to \$100,000,000 each year, to be awarded through a competitive application and scoring process with two award rounds to be scheduled by the EDA each year. The bill requires that each community-anchored development under the program involve a capital investment of at least \$10,000,000. The bill also requires the EDA to establish criteria for scoring program applications and to establish, for each award round, a minimum score required for the EDA to approve an application for the award of tax credits. The bill requires that tax credit awards under the program equal at least \$5,000,000 and limits the award of tax credits for any one community-anchored development to \$100,000,000. Under the bill, and subject to the provisions of the underlying tax credit agreement, an anchor institution is required to reimburse the EDA for a portion of the value of the tax credits awarded to the anchor institution by the end of a commitment period specified in the tax credit agreement. The EDA is required to deposit into the General Fund of the State, the reimbursed moneys received pursuant to the program.

The bill requires that tax credits awarded to an anchor institution be provided pursuant to a tax credit agreement. A tax credit agreement is required to include certain provisions and commitments, as detailed in the bill. Prior to awarding a tax credit for community-anchored project, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the EDA whether the anchor institution,

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along with any partner business included in an application, is in good standing with the respective department. The bill establishes a method for awarding tax credits under the program, based on the relative scores of individual applications.

An anchor institution is required to submit to the EDA satisfactory evidence of actual project costs, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The bill also requires an anchor institution to submit certain other information at regular intervals, as described in the bill.

New Jersey Ignite Program

The bill establishes the New Jersey Ignite Program (Ignite program) to be administered by the EDA. The Ignite program allows the EDA to provide rent support to benefit early stage technology and life science businesses in New Jersey that rent space or access to certified collaborative workspaces. Under the Ignite program, the EDA is empowered to provide grants to pay the rent expenses of early stage technology and life science business for a period of two, four, or six months, provided that: (1) the collaborative workspace grants one month of rent to the eligible business for every two months of rent expenses to be paid by the EDA; and (2) the business whose rent is subsidized under the Ignite program commits to operating at the collaborative workspace for a period of twice as long as the period for which the company's rent is to be subsidized by the EDA and the collaborative workspace owner or operator under the Ignite program.

The bill defines an early stage technology or life science business to mean a business with at least one full-time New Jersey employee and fewer than 10 employees overall and with less than \$1,000,000 in gross sales over the 12 months immediately prior to submitting an application for tenancy at a collaborative workspace that operates within a qualifying industry. A qualifying industry under the Ignite program means the advanced computing, advanced materials, biotechnology, electronic device technology, information technology, food technology, life sciences, medical device technology, health care technology, logistics technology, mobile communications technology, agriculture technology, and renewable energy industries.

Historic Property Reinvestment Act

The bill provides tax credits for part of the cost of rehabilitating historic properties in this State. The bill creates two tax credits for up to 25 percent of the taxpayer's outlay for rehabilitating a historic property: one for homeowners, which is capped at \$25,000 per property during a ten-year period; and one for businesses, which is not capped. The homeowners' tax credit applies against homeowners' gross income tax liabilities, while the businesses' tax credit applies against businesses' corporation business tax and insurance premium tax liabilities. If a taxpayer's liability is insufficient to take full advantage of the credit, the bill allows the

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taxpayer to sell the credit through a tax credit transfer certificate program to be established by the State Historic Preservation Officer (SHPO) and the Director of the Division of Taxation in the Department of the Treasury. To qualify for the homeowner or business tax credits, a property to be rehabilitated is required to be:

(1) (a) individually listed (or located in a district listed) on the National Register of Historic Places or the New Jersey Register of Historic Places, or designated (or located in a district designated) by the Pinelands Commission as a historic resource of significance to the Pinelands; and (b) if located within a district, certified by either the SHPO or the Pinelands Commission as contributing to the district's historic significance; or

(2) (a) individually identified (or located in a district composed of properties identified) for protection as a significant resource in accordance with criteria established by the appropriate municipality and approved by the SHPO; and (b) if located within a district, certified by the SHPO as contributing to the district's historic significance.

A homeowner seeking a tax credit is restricted from spending more than 60 percent of the cost of rehabilitation on interior rehabilitation and is required to own and occupy the qualified property as the homeowner's principal residence for twelve consecutive months following the completion of the rehabilitation. Moreover, rehabilitation expenditures are required to be at least 50 percent of the equalized assessed value of the structure for local real estate tax purposes as indicated on the most recent property tax bill for the property prior to the start of the rehabilitation.

A business seeking the tax credit, to the contrary, is required, during a selected 24-month or 60-month rehabilitation period, as provided in the bill, have eligible rehabilitation expenditures of the greater of \$5,000 or the property's adjusted basis of the structure used for federal income tax purposes.

The bill provides that the cumulative amount of tax credits approved cannot exceed \$15 million in the first fiscal year, \$25 million in the second fiscal year, \$40 million in the third fiscal year, and \$50 million in the fourth fiscal year and thereafter. The bill requires that in any fiscal year in which tax credits are issued, at least 25 percent of the total monetary amount of tax credits approved be granted for the rehabilitation of qualified properties by homeowners and at least 65 percent of the total monetary amount of tax credits approved be granted for the rehabilitation of qualified properties by business entities.

The bill requires the SHPO, in consultation with the director, to prepare and submit a written report to the Governor and the Legislature on or before December 31st of the fourth year following the bill's effective date. The report is to detail the number and total monetary amount of tax credits granted for the rehabilitation of qualified properties, the geographical distribution of the credits granted, a summary of the tax credit transfer program, an evaluation

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of the effectiveness of the tax credits in promoting the rehabilitation of historic properties, recommendations for administrative or legislative changes to increase the effectiveness of the program, and any other information that the officer or the director may deem useful or appropriate.

New Jersey Innovation Evergreen Program

The bill establishes the New Jersey Innovation Evergreen Program.

Brownfields Redevelopment Incentive Program

The bill establishes the Brownfields Redevelopment Incentive Program under the jurisdiction of the EDA. The purpose of the program is to compensate developers for costs incurred in the remediation of brownfield sites through the issuance of up to \$20 million in tax credits annually.

To be eligible for tax credits under the program, a developer must demonstrate to the EDA and the Department of Environmental Protection (DEP) that: (1) the developer has not commenced any remediation or clean up at the site of the redevelopment project prior to applying for a tax credit; (2) the redevelopment project is located on a brownfield site; (3) without the tax credit, the redevelopment project is not economically feasible; (4) a project financing gap exists; and (5) the developer has obtained a letter evidencing support for the redevelopment project from the governing body of the municipality in which the redevelopment project is located. The EDA, in consultation with the DEP, may impose additional eligibility criteria and consider additional factors if the EDA or DEP determines it is necessary.

Following approval of an application for a tax credit by the board of the EDA, the bill requires a developer and the EDA to enter into a redevelopment agreement. The bill requires that the redevelopment agreement specify the amount of the tax credit to be awarded to the developer, the date on which the developer must complete the remediation, and the total project remediation costs. An award of a tax credit under the program is conditioned upon the subrogation to the DEP of all rights of the developer to recover remediation costs from the discharger or other responsible party.

Within six months following the date on which the EDA and the developer executes a redevelopment agreement, the bill requires the developer to submit progress information to the EDA and the DEP indicating the remediation costs incurred by the developer for the remediation of the contaminated property located at the site of the redevelopment project. The bill requires the developer to submit these reports every six months until completion of the project. Unless the EDA determines that extenuating circumstances exist, the EDA's approval of a tax credit is to expire if the EDA and DEP do not timely receive the progress information.

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Upon completion of the redevelopment project and certification from the DEP, the developer is to receive a tax credit. The value of the tax credit is to equal 40 percent of the actual remediation costs, or 40 percent of the projected remediation costs set forth in the redevelopment agreement, or \$4 million whichever is less. The bill requires that the developer utilize the tax credit in the privilege period during which the Director of the Division of Taxation allows it.

The bill permits developers to transfer tax credits issued by the EDA, upon application to and approval by the Director of the Division of Taxation, in the privilege period in which the director allows it. The bill provides that the developer cannot sell or exchange a tax credit certificate for private financial consideration of less than 85 percent of the transferred tax credit amount. The bill prohibits a purchaser or assignee of a tax credit transfer certificate from making any subsequent transfers, assignments, or sales of the tax credit transfer certificate. A purchaser may only apply the transferred credit against a tax liability under the corporation business tax.

Film and Digital Media Tax Credits

The bill extends, by five years, the availability period for corporation business tax and gross income tax credits for certain expenses incurred for the production of certain films and digital media content. Under existing law, these tax credits are available to a taxpayer with qualifying production expenses during a privilege period or taxable year that commences on or after July 1, 2018, but before July 1, 2023. The bill provides that the tax credits are to be available to a taxpayer with qualifying production expenses during a privilege period or taxable year commencing on or after July 1, 2018, but before July 1, 2028. The bill also removes the annual tax credit caps for fiscal years from fiscal year 2020 through fiscal year 2029 and established bonuses for films and digital media content producers with established internship program with certain New Jersey educational institutions. The bill corrects citations and grammar related to the films and digital media tax credits.

Sale of Tax Credits to the Division of Taxation

Under the bill, a business, in lieu of the business being allowed any amount of a tax credit against tax liability of the business, and in lieu of the business being allowed a tax credit transfer certificate, may request to sell to the Division of Taxation in the Department of the Treasury the amount of tax credits awarded to the business pursuant to the Grow New Jersey 3.0 Assistance Program, the Economic Redevelopment and Growth Program of 2019, New Jersey Community-Anchored Development Program, and the Historic Property Reinvestment Act. The Director of the Division of Taxation in the Department of the Treasury may negotiate with a business to pay to the business up to 75 percent of the tax credit amount requested to be sold by the business to the Division of Taxation.

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“New Jersey Economic Opportunity Act of 2019”; provides for programs related to job creation and retention, property development, relief of food desert conditions, certain economic development partnerships, growth of early stage companies, and media development.

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