New Jersey Economic Recovery Act of 2020

(P.L. 2020, c. 156)

Emerge Program At-a-Glance

(§§ Sections 68-81 of P.L. 2020, c. 156)

Purpose (Section 70)	To encourage economic development, job creation, and retention of jobs in imminent danger of leaving the State.
Tax Incentive (Sections 75a, b, c)	Tax credits of $500 per year to $4,000 per year for each new or retained full-time job that pays the higher of $15 per hour or 120 percent of the statutory minimum wage for an **eligible business**, subject to certain bonus allocations and maximum gross amounts. New jobs eligible for tax credits up to 100% of base plus bonus tax credits, and retained jobs eligible for up to 50%.
Base Tax Credits (Section 75)	Base amount of tax credit for each new or retained full-time job to be calculated as follows: 1. For an eligible business facility located within a government-restricted municipality (AC, Paterson or Trenton), or which is a mega project, $4,000 per year. 2. For a qualified business facility located in an enhanced area, $3,500 per year. 3. For a qualified business facility located in a distressed municipality, $3,000 per year. 4. For a project in a qualified opportunity zone or an employment and investment corridor, $2,500 per year. 5. For a project in other eligible areas, $500 per year.
Bonus Tax Credits (Section 75)	**In addition to the base amount of the tax credit, bonus amounts may be awarded as follows:** 1. **Location:** A qualified business facility located in a municipality with a Municipal Revitalization Index score greater than 50, an increase of $1,000 per year. 2. **Extra CapX:** A qualified business facility that results in a capital investment in excess of the minimum required, an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount required for the eligibility by 40 percent, with a maximum increase of $3,000 per year. If the project

qualifies as a mega project or the qualified business facility is located in a government-restricted municipality, a maximum increase of $5,000 per year.

3. **Large Number of Employees:** For an eligible business with large numbers of full-time jobs during the commitment period, the increases shall be as follows:
    a. if between 251 and 400 new full-time jobs, $500 per year;
    b. if between 401 and 600 new full-time jobs, $750 per year;
    c. if between 601 and 800 new full-time jobs, $1,000 per year;
    d. if between 801 and 1,000 new full-time jobs, $1,250 per year;
    e. if more than 1,000 new full-time jobs, $1,500 per year;
4. **Training Program:** For an eligible business that annually funds an industry-specific training program, which has the capacity to enroll 10 percent or more of the eligible business's full-time workforce, or pays a State educational institution to provide to the public industry-specific training program, an increase of $500 per year. If such State educational institution is located within 10 miles of the qualified business facility, the increase shall be $1,000 per year.
5. **Small Business:** For an eligible business that qualifies as a small business, an increase of $500 per year.
6. **Above Median Salary:** For an eligible business with new and retained full-time jobs with a median salary in excess of the existing median salary for the county in which the project is located, or, a project in a government-restricted municipality, a business that employs full-time positions at the project with a median salary in excess of the median salary for the government-restricted municipality, an increase of $250 per year during the eligibility period for each 35 percent by which the project's median salary levels exceeds the county or government-restricted median salary, with a maximum increase of $1,500 per year.
7. **Qualified Incentive Tract:** For an eligible business with a qualified business facility located in a qualified incentive tract, an increase of $500 per year.
8. **Targeted Industry:** For an eligible business engaged primarily in a targeted industry, an increase of $500 per year.
9. **Incubator:** For an eligible business with a qualified business facility located in a qualified incubator facility, an increase of $500 per year.

10. **Labor Agreement:** For an eligible business that enters into a labor harmony agreement, an increase of $2,000 per year for the portion of the project subject to such labor harmony agreement. (A bonus for this is permitted to exceed the bonus caps in an amount not to exceed $1,000.)
11. **Child Care:** For an eligible business that provides child care either through an on-site quality child care facility free of charge to its employees or through reimbursements for the cost of child care, an increase of $1,000 per year.
12. **Prisoner Re-entry Program:** For an eligible business that enters into a partnership with a prisoner re-entry program for the purpose of identifying and promoting employment opportunities at the eligible business for former and current inmates leaving the corrections system and that hires at least one active participant in the re-entry program, an increase of $500 per year.
13. **LEED Silver:** For an eligible business that exceeds the LEED “Silver” rating standards but does not exceed “Gold” rating or completes substantial environmental remediation, an additional increase of $250 per year. If the facility exceeds the Gold rating, an increase of $500 per year.
14. **Collaboration with University or College:** For an eligible business in a targeted industry with a qualified business facility used by the eligible business to conduct a full time collaborative relationship with a college or university, an increase of $1,000 per year.
15. **Solar Energy:** For an eligible business with a project that generates solar energy on site for use within the qualified business facility equal to at least 50 percent of the facility’s electric supply service needs, an increase of $500 per year.
16. **Marine Terminal:** For an eligible business with a marine terminal project in a municipality located outside a government-restricted municipality, but within the South Jersey Port District, an increase of $1,500 per year.
17. **Opportunity Zone:** For an eligible business with a qualified business facility in a qualified opportunity zone, an increase of $1,000 per year.
18. **Underrepresented Community:** For an eligible business with 1/3 or more of its Board as members of an underrepresented community, $2,000 per year.

Maximum Tax Credit Amounts	The following maximum gross amounts shall apply for each new or retained full-time job:

(Section 75d)	1. **For a mega project or a project in a government-restricted municipality (AC, Paterson, Trenton)**, the gross amount shall not exceed $8,000 per year. 2. **For a qualified business facility (QBF) located in an enhanced area**, the gross amount shall not exceed $6,000 per year. 3. **For a QBF in a distressed municipality**, the tax credit shall not exceed $5,000 per year. 4. **For a QBF in an opportunity zone, employment and investment corridor**, a gross amount not to exceed $4,000. 5. **For a QBF in other eligible areas**, the gross amount shall not exceed $3,000.
Qualifying Project / Location (Section 69)	Eligible businesses with qualified business facilities located in a qualified incentive area and making a minimum capital investment into the business premises. A mega project shall also qualify. An "**eligible business**" is a business that meets the Application Requirements (outlined below).
QBF	A "**qualified business facility**" is any building, complex of buildings, or structural components of buildings, and all machinery and equipment located therein, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location, unless the building, complex of buildings or structural components of buildings, and all machinery and equipment therein, are used in connection with the operation of a tourism destination project located in the Atlantic City Tourism District.
Incentive Area	An "**incentive area**" means an area within any of the following: 1. An aviation district; 2. A port district; 3. A distressed municipality or transit hub municipality; 4. Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), Designated Center under State Development and Redevelopment Plan (provided an area designated as Planning Area 2 (Suburban) or Planning Area 3 (Fringe Planning Area) or a Designated Center shall be located near rail, bus, or ferry station; 5. Smart growth area and planning area designated in the New Jersey Meadowlands master plan or subject to a redevelopment plan of the Meadowlands Commission;

	6. Land owned by New Jersey Sports and Exposition Authority within boundaries of Hackensack Meadowlands District; 7. Regional growth area, rural development area zoned for industrial use, town, village or military and federal installation area in the Pinelands Commission management plan; 8. A government-restricted municipality (AC, Paterson, Trenton) 9. Land approved under federal Commission on Base Realignment and Closure action; 10. Certain areas designated as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive); or 11. Qualified opportunity zone. A "**capital investment**" means expenses that a business or an affiliate incurs following submission of an application under the Emerge Program but prior to project completion for the following activities: 1. Site preparation and construction, repair, renovation, improvement, equipping or furnishing on real property or of a building, structure, facility, or improvement to real property; 2. Obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or 3. Any combination of the foregoing.
Capital Investment	
	A "**mega project**" is a project of special economic importance, measured by level of new jobs, new capital investment, and opportunities to leverage leadership in a high-priority targeted industry.
Employee Wages (Section 74)	Each new or retained full-time job must pay the higher of $15 per hour or 120 percent of the statutory minimum wage. (Definition of FTE Section 69)
Project Agreement and Community Benefits Agreement (Section 73)	Eligible business will enter into a project agreement with the EDA and a community benefits agreement with the EDA, the county or municipality in which the qualified business facility is located.

Application Requirements (Section 71a)	1. **CapX:** The business will make, acquire, or lease a capital investment at the qualified business facility; 2. **Create/Retain Full-time Jobs:** The business will create or retain new and retained full-time jobs at the qualified business facility in specified numbers; 3. **Location:** The qualified business facility is located in a qualified incentive area; 4. **Material Factor:** The award of tax credits will be a material factor in the business's decision to create or retain the number of new and retained full-time jobs set forth in its application; and 5. **Net Positive Quantitative Benefit:** The award of tax credits, the capital investment resultant from the award of tax credits, and the resultant creation and retention of new and retained full-time jobs **will yield a net positive quantitative benefit to the State equaling at least 400 percent of the requested tax credit amount**, or, for a phased project, of the requested tax credit allocation amount for the initial phase, and on a cumulative basis, each phase thereafter, except that: a. An award of tax credits for a qualified business facility located in a **distressed municipality** or **transit hub municipality** shall yield a net positive benefit to the State that equals at least 300 percent of the requested tax credit amount; b. An award of tax credits for a qualified business facility located in a **government-restricted municipality**, or for a **mega project**, shall yield a net positive benefit to the State that equals at least 200 percent of the requested tax credit amount; c. The net economic benefits shall be evaluated on a present value basis with the requested tax credit allocation amount discounted to present value at the same discount rate as the benefits from capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs; and d. The net economic benefits shall be discounted to reflect the uncertainty of the business's location after the commitment period expires, provided that a business may elect a period of extended commitment for which time the economic benefits shall be creditable to the determination of the net economic benefit of the

	project. A business failing to maintain the project during the extended commitment period shall be obligated to repay a proportion of the incremental benefits received. 6. **Green Building:** Qualified business facility shall be in compliance with minimum environmental and sustainability standards; 7. **Affirmative Action:** Project shall comply with affirmative action requirements, *N.J.S.A.* 34:1B-5.4; 8. **Prevailing Wage:** Workers employed for construction work or building services work shall be paid not less than prevailing wage rate for the worker's craft or trade, pursuant to *N.J.S.A.* 34:11-56.25 *et seq.* and *N.J.S.A.* 34:11-56.58 *et seq.*, unless the work is performed at a facility owned by a landlord not receiving EDA assistance, the landlord is a party to the construction contract, and the qualified business facility constitutes a lease of less than 35 percent of the qualified business facility. Prevailing wage is not required for construction commencing more than two years after business has executed a commitment letter regarding EDA financial assistance and the first payment or other assistance is received.
Minimum Capital Investment (Section 71b)	1. **For rehabilitation, improvement**, **fit-out or retrofit of an existing industrial, warehousing, logistics, or research and development** portion of the premises for continued similar use by the business, **a minimum investment of $20 per square** foot of gross leasable area; 2. **For new construction of an industrial, warehousing, logistics, or research and development** portion of the premises for use by the business, a minimum investment of **$60 per square foot** of gross leasable area; 3. **For rehabilitation, improvement, fit-out, or retrofit of existing portion of the premises that does not qualify pursuant to (1) or (2)** above, a minimum investment of **$40 per square foot** of gross leasable area; 4. **For new construction of a portion of premises that does not qualify pursuant to (1) or (2)** above, a minimum investment of **$120 per square foot** of gross leasable area; and 5. **For a small business, no new minimum capital investment shall be required**, provided the applicant has demonstrated evidence satisfactory to the Authority of its intent to remain in the State for

	the commitment period. **A small business is a one engaged primarily in a targeted industry with fewer than 100 employees**.
Infrastructure Fund	In the event the business invests less than the amounts set forth above, the business shall donate the un-invested balance to the Infrastructure Fund.
Minimum New or Retained Full-Time Jobs (Section 71c)	1. **For a small business**, 25 percent growth of its workforce with new full-time jobs within the eligibility period. 2. **For a business engaged primarily in a targeted industry** which does not qualify as a small business, 25 new full-time jobs. 3. **For any other business**, a minimum of 35 new full-time jobs. 4. **For a business <u>located in a qualified incentive tract or government-restricted municipality</u>** that will retain 500 or more full-time jobs, a minimum of the business's retained full-time jobs at the time of application and new construction or rehabilitation, improvement, fit-out, or retrofit of an existing portion of the premises equal in size to the space occupied by the business's retained full-time jobs at the time of application. 5. **For a business <u>located in the State</u> that will retain 1,000 or more retained full-time jobs**, a minimum of the business's retained full-time jobs at the time of application and new construction or rehabilitation, improvement, fit-out, or retrofit of an existing portion of the premises equal in size to the space occupied by the business's retained full-time jobs at the time of application. The qualified business facility must be capable of accommodating more than half of the business's new or retained full-time employees and shall certify that not less than 80 percent or more of the new or retained full-time jobs are held by employees whose earnings are subject to withholding.
Recovery Infrastructure Fund (Section 79)	Money in the fund shall be used for funding local infrastructure, including: 1. Buildings and structures, such as schools, fire houses, police stations, recreation centers, public works garages, water and sewer treatment and pumping facilities; 2. Sidewalks, streets, roads, ramps, and jug handles; 3. Open space with improvements such as athletic fields, playgrounds, and planned parks;

	4. Open space without improvements; 5. Public transportation facilities such as train stations and public parking facilities; 6. Purchase of equipment considered vital to public safety. The Infrastructure Fund shall be funded by the money remitted by the un-invested balance of eligible businesses who fail to invest the minimum capital investment required under the program. The funds shall be earmarked to be used in the respective municipality in which the business facility is located.
Community Benefits Agreement (Section 73)	For a project in excess of $10 million, the eligible business shall enter into a community benefits agreement (CBA) with NJEDA and the county or municipality in which the project is located. The CBA shall include requirements for training, employment, and youth development and free services to underserved communities around the QBF. There shall be a community advisory committee to oversee the implementation of the CBA. A CBA shall not be required it submits a copy of the project agreement that is certified by the municipality in which the project is located.
Project Completion (Section 74)	Within 3 years of approval, the project should be complete. NJEDA may grant up to two 6-month extensions. In exceptional circumstances, NJEDA may grant one additional 1-year extension if needed.
Application Deadline (Section 71)	Applications must be submitted by March 1, 2027.
Eligibility and Commitment	Business eligible for up to 7 years of tax credits. Commitment period is 1.5 times the eligibility period.
Reporting Obligation	Eligible businesses must file annual reports. (Section 77)
Forfeiture/Reduction (Section 76)	Tax credits are subject to forfeiture, reduction or recapture if: 1. The Statewide total number of full-time employees is reduced by more than 20 percent from the tax period prior to the initial tax credit approval, the tax credits are **forfeited** for that period. 2. The business's annual report provides that the number of new full-time employees, or salaries thereof, was reduced by more than 10 percent of the number of new full-time employees, or salaries thereof, in the annual report of the prior year, NJEDA will

	reevaluate the net positive benefit and **reduce** the award accordingly. 3. The number of full-time employees at the qualified business facility drops below 80 percent of the number of new and retained full-time jobs or 80% of the salary specified in the incentive agreement, the tax credit are **forfeited** for that period. 4. Sale of Business: Except for a targeted industry with fewer than 50 employees, if the QBF is sold in whole or in part by the owner, the new owner shall not acquire the capital investment, but the tax credits of a tenant shall not be affected. **A business may relocate the business under limited circumstances.** 5. A small business that fails to meet certain jobs projections. 6. An eligible business does not remain in compliance with the requirements of a project agreement during the commitment period.
Recapture (Section 76f)	The State may recapture all or part of awarded tax credits if the eligible business that does not remain in compliance with the requirements of a project agreement during the commitment period. In the event the tax credits are transferred, EDA will pursue recapture from the eligible business and not from the purchaser or assignee of the tax credit transfer certificate.
Sale of Tax Credits (Section 78)	An eligible business may apply for a tax credit transfer certificate within three years of the tax period in which the eligible business receives a tax credit. A business may sell or assign a tax credit certificate for not less than 85% of the transferred amount. A tax credit certificate cannot be resold after the first sale. Tax credits may be used to satisfy a corporate business tax or insurance premium tax.
Surrender of Tax Credits for Cash Payment (Section 77b)	If after 2 years, the business has not used or sold the tax credits, the tax credit certificate may be surrendered to the State for a cash payment equal to 90 percent of the amount of tax credits.