

SUMMARY OF THE “NJ EMERGE” BUSINESS ATTRACTION & RETENTION INCENTIVE PROGRAM

STEP 1: Determine if your “business” meets the minimum eligibility requirements for an “Emerge” tax credit incentive award:

A. Does the proposed “project” meet the minimum “capital investment” requirement (dollar amount depends on type of premises & nature of construction)?

<u>Type of premises:</u>	<u>Nature of construction:</u>	<u>Minimum capital investment:</u>
Warehouse/Industrial/Logistics/R&D portion of premises	New construction	\$60/per square foot
Warehouse/Industrial/Logistics/R&D portion of premises	Rehabilitation	\$20/per square foot
Office portion of premises	New construction	\$120/per square foot
Office portion of premises	Rehabilitation	\$40/per square foot

IMPORTANT NOTES:

- No minimum capital investment required for a “small business.”
- Capital investment excludes: (i) eligible costs incurred prior to submission of application and (ii) the cost of any fit-up/improvements performed by a landlord.

B. Does the proposed project meet the minimum number of “new full-time jobs” (to qualify for an award on new full-time jobs)?

<u>Type of business:</u>	<u>Minimum new full-time jobs:</u>
Small business	25% job growth during the “eligibility period” (i.e., desired payout period--max. 7 years)
Business in a “targeted industry”	25 jobs
Business in any other industry	35 jobs

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C. Does the proposed project meet the minimum number of “retained full-time jobs” (to qualify for an award on retained or existing full-time jobs)?

<u>Location of project:</u>	<u>Minimum retained full-time jobs:</u>
“Qualified incentive tract” or “government-restricted municipality”	500
All other eligible “incentive areas”	1,000

IMPORTANT NOTES:

- The minimum number of retained full-time jobs can in no event be lower than the number of retained full-time jobs existing at the time of application for the incentive AND the project must include “new construction or rehabilitation, improvement, fit-out, or retrofit of an existing portion of the premises equal in size to the space by the business’s retained full-time jobs at the time of application” for the incentive

D. Is the NJ facility under consideration for the proposed project located in an eligible incentive area? (See Step 2 for list of eligible incentive areas) If no, the business will not be eligible for an “Emerge” incentive award.

E. Will the median salary of the “full-time jobs” at the project be 30% or more below the median salary for the county in which the project would be located? If yes, the business will not be eligible for an “Emerge” incentive award.

STEP 2: If your business is eligible for an “Emerge” incentive award per Step 1, determine the applicable base and maximum annual incentive award amounts per full-time job based on the location of the proposed project under consideration:

<u>Location of project:</u>	Base annual amount per new full-time job / <u>retained</u> full-time job	Maximum annual amount per new full-time job / <u>retained</u> full-time job
“Government-restricted municipality” or “mega project”	\$4,000 / \$2,000	\$8,000 / \$4,000
“Enhanced area”	\$3,500 / \$1,750	\$6,000 / \$3,000
“Distressed municipality”	\$3,000 / \$1,500	\$5,000 / \$2,500

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<u>Location of project– continued from prior page:</u>	Base annual amount per new full-time job / <u>retained</u> full-time job	Maximum annual amount per new full-time job / <u>retained</u> full-time job
“Qualified opportunity zone” or “employment and investment corridor”	\$2,500 / \$1,250	\$4,000 / \$2,000
“Other eligible area”	\$ 500 / \$ 250	\$3,000 / \$1,500

IMPORTANT NOTES:

- A business can increase its annual incentive award amount above the base annual amount by qualifying for various bonus amounts – see Step 3 below.
- Total annual and aggregate incentive award amounts may be capped and may also be reduced, both at the time of award approval as well as during the “commitment period” – see Step 5 below and consult the applicable statute and regulations (which are *highly fact-specific*).

STEP 3: Determine if the proposed project is eligible for any of these bonus incentive amounts:

<u>Bonuses:</u>	Amt. per new full-time job / <u>retained</u> full-time job”	Max. amt. per new full-time job / <u>retained</u> full-time job”
Project located in municipality having a Municipal Revitalization Index Score above 50	\$1,000 / \$ 500	n/a
Business operating an “ <u>industrial use</u> ” or “ <u>R&D use</u> ” and exceeding min. capital investment	\$1,000 / \$ 500 per 40% excess	\$3,000 / \$1,500
Business employing 251 to 400 new full-time jobs at the project	\$ 500 / \$ 250	n/a
Business employing 401 to 600 new full-time jobs at the project	\$ 750 / \$ 375	n/a
Business employing 601 to 800 new full-time jobs at the project	\$1,000 / \$ 500	n/a
Business employing 801 to 1,000 new full-time jobs at the project	\$1,250 / \$ 625	n/a
Business employing > 1,000 new full-time jobs at the project	\$1,500 / \$750	n/a

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<u>Bonuses – continued from prior page:</u>	<u>Amt. per new full-time job / “retained full-time job”</u>	<u>Max. amt. per new full-time job / “retained full-time job”</u>
Business annually funding an industry-specific employee training program at the project	\$ 500 / \$ 250 (if provided at State-run educational facility w/in 10 miles of project, then \$1,000 / \$500)	n/a
Business is a small business	\$ 500 / \$250	n/a
Median full-time job salaries exceed applicable local or county median salary	\$ 250 / \$ 125 per 35% excess	\$1,500 / \$ 750
Project located in a qualified incentive tract	\$ 500 / \$ 250	n/a
Business primarily engaged in a targeted industry at the project	\$ 500 / \$ 250	n/a
Project located in a “qualified incubator facility”	\$ 500 / \$ 250	n/a
Business enters into a “labor harmony agreement” at the project	\$2,000 / \$1,000	n/a
Business offer free on-site child care at the project or reimburses employees for child care costs	\$1,000 / \$ 500	n/a
Business partners with prisoner re-entry program to promote hiring & hires at least 1 participant	\$ 500 / \$ 250	n/a
Project exceeds LEED Silver rating	\$ 250 / \$ 125	n/a
Project exceeds LEED Gold rating	\$ 500 / \$250	n/a
Project generates on-site solar energy exceeding 50% of electricity needs at the project	\$ 500 / \$ 250	n/a
Business in a targeted industry conducting a full-time collaborative relationship with a college or university at the project	\$1,000 / \$ 500	n/a
Business operating project at a marine terminal in certain areas of South Jersey “port district”	\$1,500 / \$ 750	n/a
Project located in a qualified opportunity zone	\$1,000 / \$ 500	n/a
One-third or more of business’s governing board are diverse	\$2,000 / \$1,000	n/a

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IMPORTANT NOTE:

- No bonuses will be awarded to a business whose full-time jobs at the project would pay less than \$15 per hour or 120% of minimum wage, whichever is higher.

STEP 4: Determine the **gross** amount of the potential “Emerge” incentive award:

Add applicable base amount (Step 2) and applicable bonus amounts (Step 3)—keeping in mind that the total incentive amount per retained full-time job equals 50% of the total incentive amount applicable to a new full-time job.

Multiply the total annual amount for all new and retained full-time jobs by the eligibility period (i.e., desired payout period--max. 7 years).

STEP 5: Determine the maximum **net** amount of the potential “Emerge” incentive award by considering the following potential reductions of and caps on the gross amount determined in Step 4 above:

The award amount for a project located in a government-restricted municipality or a mega project must yield a 200% positive net benefit to the State of NJ over the commitment period (i.e., 1.5x the length of the eligibility period), failing which the award amount may be **reduced** to so achieve the required yield. The required yield for a project located in a “distressed municipality” or “[transit hub municipality](#)” is 300%. The required yield for any other eligible project is 400%.

The award amount may be further **reduced** if the median salary of the full-time jobs at the project is less than the median salary for the county in which the project would be located.

Moreover, the award amount may be **reduced** by the NJEDA board of directors at the time of approval to reflect “an amount determined by the [NJEDA] to be necessary to induce the project to be sited in New Jersey.”

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Key program details, deadlines and definitions begin on the next page =====>>>

Key program details:

- The “Emerge” incentive is not an “as of right” program; it is intended for a business that considers the award of tax credits under the “Emerge” program “a **material factor** in [its] decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program and, in the case of retained full-time jobs, the jobs are actually **at risk** of leaving the State [of New Jersey].”
- For each year of incentives awarded to a business, up to maximum of 7 years (i.e., the “**eligibility period**”), the business must commit to maintaining at the “**project**” the minimum number of “**full-time jobs**” for 1.5x the length of the incentive award period (i.e., the “**commitment period**”). For example, a business electing the maximum award “**eligibility period**” of 7 years must commit to maintaining the minimum number of “**full-time jobs**” for 10.5 years, failing which “clawback” of all or part of the award amount paid-out may apply.
- If total project costs are equal to or exceed \$10 Million, the business is required to enter into a “Community Benefits Agreement” in coordination with the county and/or municipality where the “**project**” is located.
- All construction work on the “**project,**” up to the 2nd anniversary of the date when the business receives its first year of tax credits, must be performed using prevailing wage labor (“building services” must also be performed using prevailing wage labor), except for any construction work performed on the “**project**” on behalf of the landlord (not the tenant-business) and provided that the tenant-business occupies less than 35% of the total square footage of the building housing the “**project**”.

Key program deadlines:

- All “Emerge” applications must be submitted prior to March 1, 2027.
- Approved applicants must satisfy “**full-time job**” and “**capital investment**” requirements within 3 years from date of approval by the NJEDA (with two possible 6-month extensions and one further additional one year extension upon a finding by the NJEDA that (1) the “**project**” is delayed due to unforeseeable circumstances; (2) the business is using best efforts with all due diligence to complete the “**project**”; and (3) the business has made reasonable efforts to prevent, avoid, mitigate and overcome the delay).

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Key statutory definitions used in this Summary:

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

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

"Capital investment" - Expenses that a business or an affiliate of the business incurs following its submission of an application to the NJEDA but prior to the project completion date 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. ss.168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or any combination of the foregoing.

"Commitment period" means a period that is 1.5 times the eligibility period specified in the project agreement entered into with the NJEDA, rounded up, for each applicable phase agreement.

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

"Eligibility period" means the period in which an eligible business may claim a tax credit under the program for a given project phase, beginning with the tax period in which the authority accepts certification of the eligible business that it has met the capital investment and employment requirements of the program for the respective project phase, and extending thereafter for a term of not more than seven years, with the term to be determined at the discretion of the applicant, provided that the term of the eligibility period may consist of nonconsecutive tax years if the applicant elects at any time after the end of the first tax period of the eligibility period to defer the continuation of the eligibility period to a subsequent tax period. The authority may extend the eligibility period one additional tax period to accommodate a prorated payment.

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“Employment and investment corridor” means the portions of the qualified incentive area that are not located within a distressed municipality and which:

- a. are designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition;
- b. intersect with portions of: a port district, a qualified incentive tract, or federally-owned land approved for closure under a federal Commission on Base Realignment and Closure action;
- c. are the proposed site of a qualified incubator facility, a tourism destination project, or transit oriented development; or
- d. contain: a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial premises available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

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

“Full-time employee” - A person:

- a. who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
- b. who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, pursuant to P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or
- c. who is a resident of another State, but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

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

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With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal, 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;

A "full-time employee" shall include, but shall not be limited to, an employee that has been hired by way of a labor union hiring hall or its equivalent. 35 hours of employment per week 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.

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business or a contract worker whose income is subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except that any person working as an independent contractor or contract worker whose income is subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for the business shall be deemed a full-time employee if the business demonstrates to the authority that: (a) the person working as an independent contractor for the business works at least 35 hours per week or renders any other standard service generally accepted by custom or practice as full-time employment, and the person is provided with employee health benefits under a health benefits plan authorized pursuant to State or federal law; and (b) the business provides documentation to the authority to permit the authority to verify the compensation paid to, and the time worked by, the person working as an independent contractor. The business shall provide to the authority an annual report that identifies the number of persons working as independent contractors for the business and their contractual or partnering relationship with the business.

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

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

"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 the NJ Economic Recovery Act of 2020 is subject to financial restrictions imposed pursuant to the Municipal Stabilization and Recovery Act 1[of 2016]1, P.L.2016, c.4 1[(52:27BBBB-1)] (C.52:27BBBB-1 et seq.)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.

"Incentive area" means the seven areas, districts, zones and other eligible portions of the State of NJ specified in Step 2 of this Summary.

"Industrial premises" means premises or space in which at least 51 percent of the square footage will be or has been used for the assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts, including, but not limited to, factories or as a warehouse if the business uses the warehouse as part of the chain of distribution for products assembled, processed, manufactured, or any combination thereof, by the business at the qualified business facility; for the breaking or demolishing of finished or partially finished products; or for the production of oil or gas or the generation or transformation of electricity.

“Industrial use” means assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts; the breaking or demolishing of finished or partially finished products; or the production of oil or gas or the generation or transformation of electricity. "Industrial use" includes farming purposes as that term is defined under 26 U.S.C. s. 6420(c)(3)(A), undertaken in an industrial premises.

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

"Mega project" means a project of special economic importance, as determined pursuant to regulations adopted by the NJEDA Board as measured by the level of new jobs, new capital investment, and opportunities to leverage leadership in a high-priority targeted industry, as determined by the NJEDA pursuant to rules and regulations promulgated to implement the NJ Economic Recovery Act of 2020.

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

"Office premises" - Premises that do not qualify as "Industrial Premises."

"Other eligible areas" - means those portions of the incentive area that are not located with one of the other areas, districts or zones specified in Step 2 of this Summary.

"Port district" - means the portions of an incentive area that are located within the "Port of New York District" of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

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

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“Qualified business facility” means any building, complex of buildings, or structural components of buildings, and all machinery and equipment located therein, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location (except for qualifying “tourism destination projects” located in certain portions of Atlantic City).

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

"Qualified incubator facility" - means a commercial building located within an incentive area: that contains 5,000 or more square feet of office, laboratory, or industrial premises; that is located near, and presents opportunities for collaboration with, a research institution, 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 technology startup companies during the commitment period.

“Qualified opportunity zone” means a federal population census tract in this State that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

“Retained full-time job” means a full-time job 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 of being eliminated. For the purposes of determining the number of retained full-time jobs, the full-time jobs of an affiliate shall be considered full-time jobs of the business.

“R&D use” – not yet defined in the statute/regulations.

"Small business" means a business engaged primarily in a targeted industry with fewer than 100 employees, as determined at the time of application.

"Targeted industry" means any of the following industries: advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses, including food innovation and other innovative industries that disrupt current technologies or business models.

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

"Transit oriented development" - Located within a 1/2-mile radius, or one-mile radius for projects located in a Government-restricted municipality, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

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

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

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

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