NJBIA
New Jersey Business & Industry Association

10 W Lafayette Street
Trenton, NJ 08608-2002

609-393-7707
www.njbia.org

To: Chairman Sarlo, Vice-Chairwoman Cunningham & Members of the Senate Budget & Appropriations Committee

From: Christopher Emigholz, Vice President Government Affairs

Date: December 18, 2020

RE: NJBIA Support for S-3295 (Ruiz)

Good morning! My name is Christopher Emigholz, and I am the Vice President of Government Affairs for the New Jersey Business & Industry Association (NJBIA) covering tax, budget and economic development issues. On behalf of our member companies that provide approximately 1 million jobs in our State and make NJBIA the largest statewide business association in the nation, thank you for posting this bill and for the opportunity to express our **support for S-3295.**

Thank you to Senator Ruiz, Senate President Sweeney and everyone who was involved with striking this long-awaited and necessary deal to bring this to fruition.

NEED FOR THIS TAX INCENTIVE LEGISLATION:

Our Garden State has been in a tough spot without these programs - one and a half years with no active comprehensive economic development program for New Jersey, 18 months of standing still while states could offer our businesses or any businesses looking to relocate a deal and we had nothing, 18 months of uncertainty for any businesses looking to start big projects all over our State.

And in nine of those 18 months, we have experienced the worst economic downturn of our lifetimes. We have seen record unemployment with nearly 1.86 million or about 40% of New Jersey's pre-pandemic workforce filing for unemployment at one point since March. The unemployment rate at one point hit 16.8% – about 70% higher than the worst unemployment in the Great Recession. New Jersey has experienced a 27.9% decrease in the number of small businesses open since January with a small business revenue decline of 35.6%. And we are doing worse than the rest of the nation with our state GDP falling by 35.6% in the second quarter of 2020 - 7.6% worse than the national decline. From Main Street to all hospitality businesses to health care providers to our manufacturers to professional and financial services, New Jersey employers are struggling. Our office parks, buildings and developments, once a mainstay of the New Jersey economy, especially need help with so much uncertainty surrounding the future of office work.

New Jersey businesses need a boost, and this bill provides that.

STRENGTHS OF THIS TAX INCENTIVE LEGISLATION:

This bill represents more than just better than the current status quo of nothing. It offers a rich and broad menu of economic development options that will stimulate our state economy. The breadth of programs, from the inclusion of the more traditional Emerge and Aspire replacing the successful Grow and ERG, to the inclusion of film and wind tax credits, to helping Main Street businesses, to Brownfields, to the innovation-focused Evergreen and Ignite, make this an unprecedented and exciting combination of programs with a lot of potential

NJBIA asserts that there are five prongs that need to be addressed to improve the New Jersey economy:

- Affordability
- Innovation
- Workforce Development
- Infrastructure
- Regulatory Burdens

This bill clearly addressers four of those five.

The tax incentives provided will make New Jersey **affordable** for certain businesses and development projects when the state otherwise would not be.

NJBIA believes the strength of this bill is its efforts to stimulate New Jersey's **innovation** ecosystem. Governor Murphy's signature Innovation Evergreen program lines up perfectly with NJBIA's recently released Indicators of Innovation report by boosting venture capital funds through a public-private partnership. The bill's Ignite program also aligns with that report's goals on supporting incubators and startups. Expanding the successful Angel Investor and NOL programs also is supported by NJBIA's recent report. Additionally, the support for wind energy and the targeted high-growth industries in the bill will foster innovation. The inclusion of manufacturing in these targets is also critical for our innovation ecosystem and a more robust economy.

Connected to innovation, **workforce development** is also a key plank to economic development, and this legislation improves the focus on training programs from the prior Economic Opportunity Act of 2013 through new delineated workforce development responsibilities at the NJEDA and training being an important and likely component of the bill's community benefit agreements.

And it is clear that New Jersey will be on a path to an improved **infrastructure** through the building and development occurring in this bill.

Outside of those five prongs, NJBIA is also supportive of the **improved distribution** of tax incentives that we believe will result from this bill versus the expired 2013 program. We support the broader "Employment and Investment Corridor" language that should spread incentives to areas that were left out of the last program, such as abandoned suburban office parks. We also appreciate the dedication of a portion of the funds for South Jersey as there is more growth potential in that less densely developed part of our State.

Our Association also supports the enhanced **net benefit tests** throughout this bill, and we believe they will ensure this program is an investment in New Jersey's economy rather than a loss of any state revenue. These net benefit tests make the $11.5 billion cap less necessary, but NJBIA hopes that this large multiyear cap with flexibility will not limit the success of these economic development tools.

WEAKNESSES OF THIS TAX INCENTIVE LEGISLATION:

Despite our support for this bill, NJBIA is concerned that several details of it may have the effect of counteracting the very incentives that it creates. The bill includes several mandates and additional **regulatory burdens**, the one economic development key not addressed and possibly worsened in this bill that might offset the positives designed to attract and retain businesses. It also does not do enough in some areas. Several of these weaknesses are included in the list below:

- **Labor Mandates Should Be Scaled Back** – The bill should eliminate the prevailing wage requirement for building service workers. This is not practical and will drive up costs. For example, it will discourage the use of these tax incentives to fill a floor in an existing office park because luring a new tenant with an incentive will lead to higher costs for every other tenant because the office park will be forced to increase existing services costs for everyone, including those that did not use tax incentives. The bill does have 55% language for leases to attempt to avoid this problem, but an office park or building often uses one service contract for the whole property, and it is not practical to break that up based on who received a tax incentive. Additionally, the requirement in several sections of the bill to pay 120% of the minimum wage, especially in the Main Street section will be problematic for some small and hospitality businesses that it intends to help.
- **Problematic and Ambiguous Tax Withholding Language on Page 92 in Emerge** – We think this language would discriminate against western New Jersey (Salem to Camden to Trenton to northwestern New Jersey). There are significant New Jersey businesses near Pennsylvania that have workforces that have more than 20% of their employees from PA making those businesses ineligible for Emerge due to NJ's reciprocal income tax agreement with PA. The retroactive aspect of this language is also troubling and unclear. The language could be improved by deleting the 80% language after keeping the helpful physical accommodation language, decreasing the 80% threshold to 50%, or allowing Pennsylvania residents to count toward the 80%.
- **Brownfields Section Should Be More Environmentally Friendly** – It does not seem like sound environmental policy to have strict limits on doing any brownfields remediation before the application to the program. Quicker remediation only helps the environment and can limit ultimate costs. There should be a look-back period where the tax incentive could serve as a reimbursement for cleanup work already done. Also, to encourage quicker cleanups, the credits could be issued on a rolling basis while the work is going on instead of all at once. This current language will require projects and cleanups to wait longer for the full remediation funding instead of encouraging good actors to start remediation right away.
- **Funding for Main Street Relief is Insufficient** – The bill only includes $50 million for Main Street and that is not enough. Within a $11.5 billion bill focused on pandemic recovery, helping Main Street businesses more, the very ones that may have suffered most in the pandemic, should be a bigger priority than just 0.4% of the total program. These small businesses will also struggle with the

mandates placed on them, especially the new wage floor of 120% of the minimum wage.

- **"Advanced Manufacturing" Term Should Be Clarified** – NJBIA agrees with the targets in the Evergreen, Emerge, Ignite and Anchor sections of the bill, but we would ask that the "Advanced Manufacturing" section be amended to either just say "Manufacturing" or to clarify exactly what qualifies as "Advanced Manufacturing." Manufacturing experts do not even agree on what "advanced" really means and believe it to be more of a trendy buzzword rather than a real policy parameter. No one would want to see a deserving manufacturer left out of this program because the EDA interprets that word in an unexpected manner. And in high-cost New Jersey, the non-advanced manufacturers have generally left the state already leaving the remaining ones having processes or products that involve something advanced. NJBIA also believes that deleting the word "advanced" would better fit with the goals of the Legislature's bipartisan Manufacturing Caucus.
- **Make Community Benefits Agreement a Bonus & Not a Requirement** – NJBIA would like to see community benefit agreements be a bonus to enhance an incentive award rather than a requirement. It is also important to not allow a local government's unilateral control over the agreements to derail a potential economic development opportunity for the whole region or state. There needs to be some state oversight to ensure that any agreement demands are not unreasonable. Also, if they are left as a requirement, that should only occur for very large projects.

THIS TAX INCENTIVE LEGISLATION REPRESENTS THE BALANCE WE HAVE BEEN REQUESTING:

NJBIA has been asking for more **balance** and an economic plan reflecting that throughout the economic struggles of this pandemic, and we believe this bill represents that balanced plan. This bill is far from perfect and more issues will undoubtedly arise over time from legislation this complicated, but it includes positives for business alongside the negatives. It is impossible to know if this economic development plan will achieve the right balance, but we ask the Legislature for a chance to revisit this in the future as we learn more about the strengths and weaknesses of this bill. We do appreciate that this plan does not continue the unrelenting tax increases, cost drivers and regulatory burdens that we have seen over the course of the pandemic, but instead provides new supports to an economy on the brink.

Thank you for that balance, and we look forward to working with you to maintain it in this program and beyond!