55:14K-106 to 55:14K-110 et al
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2025 **CHAPTER:** 111

NJSA: 55:14K-106 to 55:14K-110 et al Authorizes HMFA to use certain tax credits; directs HMFA to conduct tax credit auctions to provide financial assistance for certain housing purposes.

BILL NO: A3128 (Substituted for S4071/3155 (SCS))

SPONSOR(S) Coughlin, Craig J. and others

DATE INTRODUCED: 1/9/2024

COMMITTEE: **ASSEMBLY:** Housing
Appropriations

SENATE: Community & Urban Affairs
Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 06/30/2025

SENATE: 06/30/2025

DATE OF APPROVAL: 7/22/2025

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (A3128 AcaSca (2R) enacted)

ADVANCE LAW Yes

PAMPHLET LAW Yes

A3128

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): Yes AHO 1/29/24 1R
SBA 6/26/25 2R

TECHNICAL REVIEW OF BILL: No

COMMITTEE STATEMENT: **ASSEMBLY**: Yes Housing
Appropriations

SENATE: Yes Community & Urban Affairs
Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 02/07/2024 1R

S4071/3155 (SCS)

INTRODUCED BILL: (Includes sponsor(s) statement)		Yes	S4071 S3155	
REPRINT(S):		Yes	SCU 5/6/24 1R SCU 5/12/25 1R SBA 6/26/25 SCS S3155	
TECHNICAL REVIEW OF BILL:		No		
COMMITTEE STATEMENT:	**ASSEMBLY**:	No		
	SENATE:	Yes	Community & Urban Affairs	05/06/2024 05/12/2025
			Budget & Appropriations	

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	06/30/25 07/3/25
VETO MESSAGE:	No	
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes	
LEGISLATOR STATEMENT:	Yes	

FOLLOWING WERE PRINTED:
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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	No

CL/MMcB

§§3-7
C.55:14K-106
to 55:14K-110

P.L. 2025, CHAPTER 111, ***approved July 22, 2025***
Assembly, No. 3128 ***(Second Reprint)***

AN ACT concerning the [2]**[**issuance**]** use[2] of [2]**[**certain**]**[2] tax credits [2]for certain housing programs[2], amending P.L.2020, c.156, and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

[1]**[**1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the following annual limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

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.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AHO committee amendments adopted January 29, 2024.
[2]Senate SBA committee amendments adopted June 26, 2025.

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $200 million, except that during each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any of the first six years of the nine-year period, the authority awards tax credits in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be ⟦available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits from any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located⟧ reallocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for the purposes authorized in P.L. , c. (C.) (pending before the Legislature as this bill).

Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey

Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

(cf: P.L.2023, c.98, s.13)**]**[1]

[2]**[**[1]1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire

Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4) **[**,**]** ; and the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.   ), shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) and the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.   ), subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.   ), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be **[**available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located**]** reallocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for the purposes authorized in P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.[1]

(cf: P.L.2023, c.197, s.13)**]**[2]

[2]**[**2. (New section) As used in sections 2 through 5 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Low income housing tax credit" means a tax credit provided through the federal Low Income Housing Tax Credit program pursuant to section 42 of the Internal Revenue Code (26 U.S.C. s.42).

"Project financing gap" means the same as the term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323).

"Qualified project" means a housing project that satisfies all eligibility requirements, as determined by the agency, for the receipt of a nine-percent low income housing tax credit, notwithstanding the availability or unavailability of such funds.**]**[2]

[2]**[**3. (New section) a. Notwithstanding any provision of law or regulation to the contrary, the agency may award the total amount of tax credits allocated to the agency pursuant to subparagraph (e) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362) in accordance with the provisions of this section.

b. The agency may award project financing tax credits to the developers of qualified projects, which tax credits shall supplement the value of any four-percent low income housing tax credits previously awarded to the developer for the qualified project, subject to the provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. In addition to any other eligibility requirements that the agency may deem appropriate, the tax credits authorized under this section shall be available to any developer of a qualified project that:

(1) received a four-percent low income housing tax credit for the qualified project from the agency due to the total demand for nine-percent low income housing tax credits exceeding the total value of such tax credits available for distribution by the agency, as made available to the agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. s.42); and

(2) demonstrates the existence of a project financing gap for the qualified project.

d. The total value of tax credits awarded to a developer shall equal the lesser of:

(1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent low-income housing tax credit for the qualified project; or

(2) the amount of the project financing gap for the qualified project.

e. (1) All tax credits authorized pursuant to this section shall be awarded upon application to the agency, which applications shall be submitted in a form and manner prescribed by the agency. Notwithstanding any provision of law or regulation to the contrary, the agency may award some or all of the tax credits authorized under this section as part of an existing program operated by the agency on or before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) or through the establishment of a new program to effectuate the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Upon approval of any application for tax credits pursuant to this section, and upon the satisfaction of such additional requirements as the agency deems appropriate, the agency shall provide the tax credit recipient and the director with a certificate of compliance indicating the amount of tax credits that the recipient may apply against the recipient's tax liability, subject to the provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).**]**[2]

[2]**[**4. (New section) a. The tax credits issued by the agency pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) may be applied against a developer's tax liability under 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. To claim the tax credit amount for a privilege period, the developer shall submit to the director the certificate of compliance issued by the agency pursuant to paragraph (2) of subsection e. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. (1) The director shall prescribe the order of priority of the application of the tax credit allowed under this section, together with any other credits allowed by law, against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period. 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, 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).

(2) A developer may carry forward any unused tax credit resulting from the limitations of paragraph (1) of this subsection or from the insufficiency of a tax liability, as applicable, for use in the five privilege periods next following the privilege period for which the credits are awarded.

(3) 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 accompanied by any additional information as the director may prescribe.

c. (1) A developer may apply to the director and the agency for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. An application for a tax credit transfer certificate shall not be approved unless the agency affirmatively determines, based on such considerations as the agency deems appropriate, that the sale or assignment of the tax credit transfer certificate is socially beneficial to the State.

(2) Upon approval of a developer’s application for a tax credit transfer certificate, and upon receipt thereof by the developer from the director and the agency, the tax credit transfer certificate may be sold or assigned, in full or in part, for an amount not less than $25,000, in the privilege period during which the developer receives the tax credit transfer certificate 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, subject to the carry-forward authorizations set forth in paragraph (2) of subsection b. of this section. The certificate provided to the developer shall include a statement waiving the developer's right to claim the amount of the tax credit that the developer has elected to sell or assign against the developer's tax liability.

(3) The developer shall not sell or assign, including a 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 that shall be permitted.

(4) 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.**]**[2]

[2][5. (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 agency may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the agency deems necessary to implement the provisions 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. Thereafter, the agency shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).][2]

[2]1. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

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

(2) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director.

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

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276);

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

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

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

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

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

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

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

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

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

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

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

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and

(14) sections 3 through 7 of P.L. , c. (C. through) (pending before the Legislature as this bill).[2]

(cf: P.L.2025, c.2, s.9)

[2]2. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of

P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); ⟦and⟧ the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ C.34:1B-394 et al.); and P.L. , c. (C.) (pending before the Legislature as this bill) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), ⟦and⟧ the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ C.34:1B-394 et al.), and P.L. , c. (C.) (pending before the Legislature as this bill), shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) (i) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $100,000,000;

(ii) from the tax credits made available to the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the sum of $200,000,000 in tax credits shall be allocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill). All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L. , c. (C) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or

<u>conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;</u>

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ <u>C.34:1B-394 et al.</u>), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation,

except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b);

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State; ⟦and⟧

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 ⟦(C.34:1B-362 et seq.)⟧ (C.34:1B-394 et al.); and

(l) once the tax credits allocated for competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill) pursuant to subsubparagraph (ii) of subparagraph (b) of this paragraph are exhausted, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, the sum of $300,000,000 shall be made available to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill). The amount made available pursuant to this subparagraph shall be allocated in annual instalments, each of which is not to exceed the cap set forth in paragraph (3) of subsection a. of section 4 of P.L. , c. (pending before the Legislature as this bill), as needed to conduct auctions pursuant to that section. All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L. , c. (C) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners, $250,000,000 for New Jersey film-lease production companies, and $300,000,000 for taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.[2]

(cf: P.L.2024, c.49, s.10)

[2]3. (New section) As used in sections 4 through 7 of P.L. , c. (C. through) (pending before the Legislature as this bill):

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

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

"Distressed older suburban municipality" means a municipality that is not designated by the agency as a targeted urban municipality, and that, in the determination of the agency, meets at least four of the following criteria:

a. has experienced a sustained drop in income levels compared to the region;

b. has an elevated percentage of residents living below 100 percent of the poverty line, adjusted for family size, established and adjusted under section 673 of the federal "Community Services Block Grant Act," (42 U.S.C. s.9902);

c. experiences high rates of unemployment or low labor force participation rates;

d. has a large share of homes built before 1960 and elevated rates of residential property vacancy and abandonment;

e. experiences stagnant or declining property values;

f. experiences declining commercial ratables; and

g. experiences declining municipal capacity as a consequence of budget stress.

"Four-Percent Low Income Housing Tax Credit" means the four-percent allocation from the federal Low Income Housing Tax Credit program established pursuant to section 42 of the federal Internal Revenue Code (26 U.S.C. s.42).

"Low- and moderate-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 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.

"Middle-income 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 80 percent or more, but not exceeding 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

"Targeted urban municipality" means the same as that term is defined by the agency pursuant to N.J.A.C.5:80-33.2, or successor regulation.[2]

[2]4. (New section) a. (1) Beginning on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the agency shall sell up to $500,000,000 in tax credits over the course of no more than six years.

(2) The competitive auctions shall be conducted in a manner consistent with the processes set forth in section 24 of P.L.2020, c.156 (C.34:1B-292), as determined by the agency. The agency shall be permitted to join or be added to any contracts that the New Jersey Economic Development Authority has utilized for its auctions, although auctions held for the purposes of administering P.L. , c. (C.) (pending before the Legislature as this bill) shall not be counted towards the limitation imposed pursuant to subsection d. of section 24 of P.L.2020, c.156 (C.34:1B-292) and the requirement on purchasers under paragraph (3) of subsection b. of section 24 of P.L.2020, c.156 (C.34:1B-292) shall not apply. The agency shall deposit funds received at an auction pursuant to this subsection minus those reserved for administrative or operational costs into a nonlapsing account established and

maintained by the agency for the purposes of administering P.L.   , c.   (C.   ) (pending before the Legislature as this bill).

(3) The agency shall be limited to selling $100,000,000 in tax credits annually and shall not sell tax credits for less than 80 percent of the tax credit amount.

b. (1) (a) Fifty percent of the proceeds deposited into the nonlapsing account created pursuant to paragraph (2) of subsection a. of this section shall be reserved for use by the agency for the purposes of providing financial assistance to create middle-income workforce housing. Fifty percent of the proceeds deposited into the nonlapsing account created pursuant to paragraph (2) of subsection a. of this section shall be reserved for use by the agency for the purposes of providing financial assistance to create low- and moderate-income housing toward the fulfillment of a municipality's current or prior round fair share affordable housing obligation pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

(b) The 50 percent set asides established by subparagraph (a) of this paragraph for monies deposited into the nonlapsing account in each program funding year, pursuant to paragraph (2) of subsection a. of this section, shall remain in effect until December 31 of that year. If any funds deposited into the nonlapsing account during that program funding year remain unreserved for qualified projects subject to the set asides after December 31 of the program funding year when the monies are deposited, the set aside shall no longer apply to those funds, which may then be used for any qualified project under sections 4 through 7 of P.L.   , c. (C.   through   ) (pending before the Legislature as this bill). The initial program funding year shall begin on July 1, 2025, and shall conclude on December 31, 2025. Each subsequent program funding year shall conform to the calendar year.

(c) In the distribution of proceeds pursuant to this section for the purposes of providing financial assistance to create low- and moderate-income housing toward the fulfillment of a municipality's current or prior round fair share affordable housing obligation pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), the agency shall prioritize an application for development that is in a distressed older suburban municipality, as defined in section 3 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill).

(d) Housing created pursuant to this section may include, but shall not be limited to, new construction or the rehabilitation or construction of residential units within multiple dwellings.

(e) Following the enactment of P.L.   , c.   (C.   ) (pending before the Legislature as this bill), the agency shall promptly and actively promote the middle-income workforce housing component of the housing program established pursuant to this section to ensure that a substantial range of potential applicants to obtain funding to provide middle-income workforce housing are made aware of the program. The promotion efforts of the agency shall include, but shall not be limited to: the provision of information sessions on the program and application process; and the provision of technical assistance to applicants in completing the application process.

(2) The agency shall promulgate guidelines for a housing program to fulfill the purposes of this section within 90 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) to govern the application and award processes for qualified projects seeking funds deposited under P.L. , c. (C.) (pending before the Legislature as this bill). In addition to any other eligibility requirements that the agency deems appropriate, the project financing subsidy authorized under this section shall only be made available to projects in receipt of a Four-Percent Low Income Housing Tax Credit administered by the agency.

(3) The agency may utilize up to five percent of the proceeds to reimburse for administrative and operational costs, including contracts necessary to hold the auction.[2]

[2]5. (New section) A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall enter into a contract with the agency that includes payment information and the commitments made by the purchaser in its auction bid. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall pay by wire transfer the amount specified in its auction bid to the agency. Upon receipt thereof, the Executive Director of the agency shall notify the director to issue tax credits in the amount approved. Failure by the purchaser to pay the amount agreed upon on time shall disqualify the purchaser from purchasing the tax credits and the agency may reassign the right to purchase the credits to another bidder. Failure by the purchaser to adhere to the commitments made in its auction bid shall disqualify the purchaser from participating in future auctions and may result in the recapture of a portion of the tax credits.[2]

[2]6. (New section) a. A purchaser shall apply a credit awarded pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) against the purchaser's State tax liability due 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 for the current privilege period as of the date of the approval of the credits. A purchaser may carry forward an unused credit resulting from the limitations of subsection b. of this section, if necessary, for use in the seven privilege periods next following the privilege period for which the credit is awarded.

b. The director shall prescribe the order of priority of the application of the credits awarded under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other credits allowed by law. The amount of a credit applied under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) 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 of the purchaser 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).[2]

[2]7. (New section) a. A purchaser may apply to the agency and the director for a tax credit transfer certificate in lieu of the purchaser being allowed to apply any amount of the tax credit against the purchaser's State tax liability. A tax credit may be sold or assigned, in full or in part, to another person that may have 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 purchaser shall include a statement waiving the purchaser's right to claim the credit that the purchaser has elected to sell or assign.

b. The purchaser shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the purchaser of less than 80 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 purchaser by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 6 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 buyer 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. Ten percent of the consideration received by a purchaser from the sale or assignment of a tax credit transfer certificate pursuant to this section shall be remitted to the director and deposited in the General Fund of the State.

e. The agency shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the agency 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;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.[2]

[2]**[**6.**]** 8.[2] This act shall take effect immediately.

Authorizes HMFA to use certain tax credits; directs HMFA to conduct tax credit auctions to provide financial assistance for certain housing purposes.

CHAPTER 111
CORRECTED COPY

AN ACT concerning the use of tax credits for certain housing programs, amending P.L.2020, c.156, and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

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

C.52:18A-263 Purchase of unused tax credits.

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in paragraphs (1) through (5) or paragraphs (7) through (12) of subsection b. of this section and shall purchase unused tax credits awarded under a program listed in paragraphs (6), (13), and (14) of subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

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

(2) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent;

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director; or

(4) the “Garden State Film and Digital Media Jobs Act,” P.L.2018, c.56 (C.54:10A-5.39b et al.), for which the director shall pay an amount equal to 95 percent of the credit amount 1for any original application approved by the authority on or after January 1, 2026, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the taxpayer, which taxpayer is a New Jersey studio partner or the holder of such certificate originally issued to a New Jersey studio partner, occurred at least one year prior to the date of application to the director and provided that the director shall purchase such certificates valued at no more than a cumulative amount of $80,000,000 in State fiscal year 2026, $160,000,000 in State fiscal year 2027, $240,000,000 in State fiscal year 2028, and $200,000,000 in each State fiscal year thereafter, subject to the conditions in this paragraph. If an application to the director for the purchase of tax credits otherwise qualifies pursuant to this paragraph, but the value of tax credits for which the director receives applications exceeds the maximum cumulative amount for the State fiscal year in which the application is made, the director shall purchase the remaining tax credits in the State fiscal year next following the State fiscal year in which the application is made, provided that the director shall not purchase a cumulative amount above

the maximum cumulative amount for the respective State fiscal year. No payments shall be made pursuant to this paragraph unless the following conditions are met: full funding is provided for the fiscal year to satisfy the requirement in Article VIII, Section IV, paragraph 1 of the New Jersey Constitution that the Legislature provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of children in the State between the ages of five and 18 years; full payment of the contributions required by law for the fiscal year is made to the State-administered retirement systems; and the annual appropriations act for the State fiscal year maintains a budgetary surplus of no less than 12 percent of total appropriations from the General Fund and the Property Tax Relief Fund.

b. The Director of the Division of Taxation in the Department of the Treasury may or shall, subject to the provisions of subsection a. of this section, purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276);

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

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

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

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

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

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

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

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

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

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

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

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.);

(14) the "Garden State Film and Digital Media Jobs Act," P.L.2018, c.56 (C.54:10A-5.39b et al.); and

(15) sections 3 through 7 of P.L.2025, c.111 (C.55:14K-106 through 55:14K-110).

2. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

C.34:1B-362 Combined value, all tax credits.

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through

67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.); and P.L.2025, c.111 (C.55:14K-106 et al.) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.), and P.L.2025, c.111 (C.55:14K-106 et al.), shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) (i) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $100,000,000;

(ii) from the tax credits made available to the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the sum of $200,000,000 in tax credits shall be allocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L.2025, c.111 (C.55:14K-106 through 55:14K-110). All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L.2025, c.111 (C.55:14K-107). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000, provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-

321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b);

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State;

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.); and

(l) once the tax credits allocated for competitive auctions conducted pursuant to sections 3 through 7 of P.L.2025, c.111 (C.55:14K-106 through 55:14K-110) pursuant to subsubparagraph (ii) of subparagraph (b) of this paragraph are exhausted, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, the sum of $300,000,000 shall be made available to the New Jersey Housing and Mortgage Finance Agency, established pursuant to

P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L.2025, c.111 (C.55:14K-106 through 55:14K-110). The amount made available pursuant to this subparagraph shall be allocated in annual installments, each of which is not to exceed the cap set forth in paragraph (3) of subsection a. of section 4 of P.L.2025, c.111 (C.55:14K-107), as needed to conduct auctions pursuant to that section. All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L.2025, c.111 (C.55:14K-107). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program, provided, however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New

Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners, $250,000,000 for New Jersey film-lease production companies, and $300,000,000 for taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

C.55:14K-106 Definitions.

3. As used in sections 4 through 7 of P.L.2025, c.111 (C.55:14K-107 through 55:14K-110):

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

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

"Distressed older suburban municipality" means a municipality that is not designated by the agency as a targeted urban municipality, and that, in the determination of the agency, meets at least four of the following criteria:

has experienced a sustained drop in income levels compared to the region;

has an elevated percentage of residents living below 100 percent of the poverty line, adjusted for family size, established and adjusted under section 673 of the federal "Community Services Block Grant Act," (42 U.S.C. s.9902);

experiences high rates of unemployment or low labor force participation rates;

has a large share of homes built before 1960 and elevated rates of residential property vacancy and abandonment;

experiences stagnant or declining property values;

experiences declining commercial ratables; and

experiences declining municipal capacity as a consequence of budget stress.

″Four-Percent Low Income Housing Tax Credit″ means the four-percent allocation from the federal Low Income Housing Tax Credit program established pursuant to section 42 of the federal Internal Revenue Code (26 U.S.C. s.42).

"Low- and moderate-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 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.

"Middle-income 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 80 percent or more, but not exceeding 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

"Targeted urban municipality" means the same as that term is defined by the agency pursuant to N.J.A.C.5:80-33.2, or successor regulation.

C.55:14K-107 Tax credits to be sold by the New Jersey Housing and Mortgage Finance Agency, competitive auctions.

4. a. (1) Beginning on the effective date of P.L.2025, c.111 (C.55:14K-106 et al.), the agency shall sell up to $500,000,000 in tax credits over the course of no more than six years.

(2) The competitive auctions shall be conducted in a manner consistent with the processes set forth in section 24 of P.L.2020, c.156 (C.34:1B-292), as determined by the agency. The agency shall be permitted to join or be added to any contracts that the New Jersey Economic Development Authority has utilized for its auctions, although auctions held for the purposes of administering P.L.2025, c.111 (C.55:14K-106 et al.) shall not be counted towards the limitation imposed pursuant to subsection d. of section 24 of P.L.2020, c.156 (C.34:1B-292) and the requirement on purchasers under paragraph (3) of subsection b. of section 24 of P.L.2020, c.156 (C.34:1B-292) shall not apply. The agency shall deposit funds received at an auction pursuant to this subsection minus those reserved for administrative or operational costs into a nonlapsing account established and maintained by the agency for the purposes of administering P.L.2025, c.111 (C.55:14K-106 et al.).

(3) The agency shall be limited to selling $100,000,000 in tax credits annually and shall not sell tax credits for less than 80 percent of the tax credit amount.

b. (1) (a) Fifty percent of the proceeds deposited into the nonlapsing account created pursuant to paragraph (2) of subsection a. of this section shall be reserved for use by the agency for the purposes of providing financial assistance to create middle-income workforce housing. Fifty percent of the proceeds deposited into the nonlapsing account created pursuant to paragraph (2) of subsection a. of this section shall be reserved for use by the agency for the purposes of providing financial assistance to create low- and moderate-income housing toward the fulfillment of a municipality’s current or prior round fair share affordable housing obligation pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

(b) The 50 percent set asides established by subparagraph (a) of this paragraph for monies deposited into the nonlapsing account in each program funding year, pursuant to paragraph (2) of subsection a. of this section, shall remain in effect until December 31 of that year. If any funds deposited into the nonlapsing account during that program funding year remain unreserved for qualified projects subject to the set asides after December 31 of the program funding year when the monies are deposited, the set aside shall no longer apply to those funds, which may then be used for any qualified project under sections 4 through 7 of P.L.2025, c.111 (C.55:14K-107 through 55:14K-110). The initial program funding year shall begin on July 1, 2025, and shall conclude on December 31, 2025. Each subsequent program funding year shall conform to the calendar year.

(c) In the distribution of proceeds pursuant to this section for the purposes of providing financial assistance to create low- and moderate-income housing toward the fulfillment of a municipality’s current or prior round fair share affordable housing obligation pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), the agency shall prioritize an application for development that is in a distressed older suburban municipality, as defined in section 3 of P.L.2025, c.111 (C.55:14K-106).

(d) Housing created pursuant to this section may include, but shall not be limited to, new construction or the rehabilitation or construction of residential units within multiple dwellings.

(e) Following the enactment of P.L.2025, c.111 (C.55:14K-106 et al.), the agency shall promptly and actively promote the middle-income workforce housing component of the housing program established pursuant to this section to ensure that a substantial range of potential applicants to obtain funding to provide middle-income workforce housing are made aware of the program. The promotion efforts of the agency shall include, but shall not be limited to: the provision of information sessions on the program and application process and the provision of technical assistance to applicants in completing the application process.

(2) The agency shall promulgate guidelines for a housing program to fulfill the purposes of this section within 90 days following the effective date of P.L.2025, c.111 (C.55:14K-106 et al.) to govern the application and award processes for qualified projects seeking funds deposited under P.L.2025, c.111 (C.55:14K-106 et al.). In addition to any other eligibility requirements that the agency deems appropriate, the project financing subsidy authorized under this section shall only be made available to projects in receipt of a Four-Percent Low Income Housing Tax Credit administered by the agency.

(3) The agency may utilize up to five percent of the proceeds to reimburse for administrative and operational costs, including contracts necessary to hold the auction.

C.55:14K-108 Tax credit purchaser, contract, New Jersey Housing and Mortgage Finance Agency.

5. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L.2025, c.111 (C.55:14K-107) shall enter into a contract with the agency that includes payment information and the commitments made by the purchaser in its auction bid. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L.2025, c.111 (C.55:14K-107) shall pay by wire transfer the amount specified in its auction bid to the agency. Upon receipt thereof, the Executive Director of the agency shall notify the director to issue tax credits in the amount approved. Failure by the purchaser to pay the amount agreed upon on time shall disqualify the purchaser from purchasing the tax credits and the agency may reassign the right to purchase the credits to another bidder. Failure by the purchaser to adhere to the commitments made in its auction bid shall disqualify the purchaser from participating in future auctions and may result in the recapture of a portion of the tax credits.

C.55:14K-109 Tax credit purchaser, application, State tax liability, privilege period.

6. a. A purchaser shall apply a credit awarded pursuant to section 4 of P.L.2025, c.111 (C.55:14K-107) against the purchaser's State tax liability due 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 for the current privilege period as of the date of the approval of the credits. A purchaser may carry forward an unused credit resulting from the limitations of subsection b. of this section, if necessary, for use in the seven privilege periods next following the privilege period for which the credit is awarded.

b. The director shall prescribe the order of priority of the application of the credits awarded under section 4 of P.L.2025, c.111 (C.55:14K-107) and any other credits allowed by law. The amount of a credit applied under section 4 of P.L.2025, c.111 (C.55:14K-107) 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 of the purchaser 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).

C.55:14K-110 Tax credit transfer certificate, selling, assigning abilities, limitations.

7. a. A purchaser may apply to the agency and the director for a tax credit transfer certificate in lieu of the purchaser being allowed to apply any amount of the tax credit against the purchaser's State tax liability. A tax credit may be sold or assigned, in full or in part, to another person that may have 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 purchaser shall include a statement waiving the purchaser's right to claim the credit that the purchaser has elected to sell or assign.

b. The purchaser shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the purchaser of less than 80 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 purchaser by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 6 of P.L.2025, c.111 (C.55:14K-109) and any other terms and conditions that the director may prescribe.

c. A buyer 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. Ten percent of the consideration received by a purchaser from the sale or assignment of a tax credit transfer certificate pursuant to this section shall be remitted to the director and deposited in the General Fund of the State.

e. The agency shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the agency 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;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.

8. This act shall take effect immediately.

Approved July 22, 2025.

ASSEMBLY, No. 3128

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:
Assemblyman CRAIG J. COUGHLIN
District 19 (Middlesex)
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)

Co-Sponsored by:
Assemblyman Atkins

SYNOPSIS

Authorizes HMFA to issue tax credits for certain purposes.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the issuance of certain tax credits, amending P.L.2020, c.156, and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the following annual limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156

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 <u>thus</u> is new matter.

(C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $200 million, except that during each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any of the first six years of the nine-year period, the authority awards tax credits in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be [available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits from any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located] reallocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for the purposes authorized in P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

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

2. (New section) As used in sections 2 through 5 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill):

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

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

"Low income housing tax credit" means a tax credit provided through the federal Low Income Housing Tax Credit program pursuant to section 42 of the Internal Revenue Code (26 U.S.C. s.42).

"Project financing gap" means the same as the term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323).

"Qualified project" means a housing project that satisfies all eligibility requirements, as determined by the agency, for the receipt of a nine-percent low income housing tax credit, notwithstanding the availability or unavailability of such funds.

3. (New section) a. Notwithstanding any provision of law or regulation to the contrary, the agency may award the total amount of tax credits allocated to the agency pursuant to subparagraph (e) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362) in accordance with the provisions of this section.

b. The agency may award project financing tax credits to the developers of qualified projects, which tax credits shall supplement the value of any four-percent low income housing tax credits previously awarded to the developer for the qualified project, subject to the provisions of section 4 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill).

c. In addition to any other eligibility requirements that the agency may deem appropriate, the tax credits authorized under this section shall be available to any developer of a qualified project that:

(1) received a four-percent low income housing tax credit for the qualified project from the agency due to the total demand for nine-percent low income housing tax credits exceeding the total value of such tax credits available for distribution by the agency, as made available to the agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. s.42); and

(2) demonstrates the existence of a project financing gap for the qualified project.

d. The total value of tax credits awarded to a developer shall equal the lesser of:

(1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent low-income housing tax credit for the qualified project; or

(2) the amount of the project financing gap for the qualified project.

e. (1) All tax credits authorized pursuant to this section shall be awarded upon application to the agency, which applications shall be submitted in a form and manner prescribed by the agency. Notwithstanding any provision of law or regulation to the contrary, the agency may award some or all of the tax credits authorized under this section as part of an existing program operated by the agency on or before the effective date of P.L.   , c.   (C.   ) (pending before the Legislature as this bill) or through the establishment of a new program to effectuate the provisions of P.L.   , c.   (C.   ) (pending before the Legislature as this bill).

(2) Upon approval of any application for tax credits pursuant to this section, and upon the satisfaction of such additional requirements as the agency deems appropriate, the agency shall provide the tax credit recipient and the director with a certificate of compliance indicating the amount of tax credits that the recipient may apply against the recipient's tax liability, subject to the provisions of section 4 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill).

4. (New section) a. The tax credits issued by the agency pursuant to section 3 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill) may be applied against a developer's tax liability under 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. To claim the tax credit amount for a privilege period, the developer shall submit

to the director the certificate of compliance issued by the agency pursuant to paragraph (2) of subsection e. of section 3 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill).

b. (1) The director shall prescribe the order of priority of the application of the tax credit allowed under this section, together with any other credits allowed by law, against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period. 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, 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).

(2) A developer may carry forward any unused tax credit resulting from the limitations of paragraph (1) of this subsection or from the insufficiency of a tax liability, as applicable, for use in the five privilege periods next following the privilege period for which the credits are awarded.

(3) 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 accompanied by any additional information as the director may prescribe.

c. (1) A developer may apply to the director and the agency for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. An application for a tax credit transfer certificate shall not be approved unless the agency affirmatively determines, based on such considerations as the agency deems appropriate, that the sale or assignment of the tax credit transfer certificate is socially beneficial to the State.

(2) Upon approval of a developer’s application for a tax credit transfer certificate, and upon receipt thereof by the developer from the director and the agency, the tax credit transfer certificate may be sold or assigned, in full or in part, for an amount not less than $25,000, in the privilege period during which the developer receives the tax credit transfer certificate 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, subject to the carry-forward authorizations set forth in paragraph (2) of subsection b. of this section. The certificate provided to the developer shall include a statement waiving the developer's right to claim the amount of the tax credit that the developer has elected to sell or assign against the developer's tax liability.

(3) The developer shall not sell or assign, including a 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 that shall be permitted.

(4) 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.

5. (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 agency may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the agency deems necessary to implement the provisions 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. Thereafter, the agency shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

6. This act shall take effect immediately.

STATEMENT

This bill authorizes the New Jersey Housing and Mortgage Finance Agency (HMFA) to issue project financing tax credits to support the development of certain housing projects.

Under the bill, the uncommitted portion of tax credits otherwise authorized to be awarded by the New Jersey Economic Development Authority under the Community-Anchored Development Program are to be annually reallocated to the HMFA to support the purposes set forth in this bill.

Specifically, the bill permits the HMFA to award project financing tax credits to the developers of certain qualified projects that: (1) have received a four-percent federal low income housing tax credit (LIHTC) when the total demand for nine-percent LIHTC exceeds the total value available for distribution; and (2) have a project financing gap demonstrated by the developer at the time of application. The total tax credit award is not to exceed the lesser of: (1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent LIHTC for the qualified project; or (2) the amount of the project financing gap for a qualified project.

The bill provides that the HMFA may award some or all of these tax credits as part of an existing program operated by the HMFA or through the establishment of a new program to effectuate the provisions of this bill. The bill also provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in the bill.

[First Reprint]

ASSEMBLY, No. 3128

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:
Assemblyman CRAIG J. COUGHLIN
District 19 (Middlesex)
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Assemblywoman ELIANA PINTOR MARIN
District 29 (Essex and Hudson)

Co-Sponsored by:
Assemblyman Atkins, Assemblywoman Park, Assemblyman Verrelli, Assemblywomen Collazos-Gill and Speight

SYNOPSIS
Authorizes HMFA to issue tax credits for certain purposes.

CURRENT VERSION OF TEXT
As reported by the Assembly Housing Committee on January 29, 2024, with amendments.

(Sponsorship Updated As Of: 2/12/2024)

AN ACT concerning the issuance of certain tax credits, amending P.L.2020, c.156, and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

[1]**[**1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the following annual limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

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 <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AHO committee amendments adopted January 29, 2024.

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $200 million, except that during each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any of the first six years of the nine-year period, the authority awards tax credits in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be **[**available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits from any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located**]** reallocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for the purposes authorized in P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the “New Jersey Economic Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

(cf: P.L.2023, c.98, s.13)**]**[1]

[1]1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4) **[**,**]** ; and the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.   ), shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) and the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.   ), subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.   ), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be ⟦available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located⟧ <u>reallocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for the purposes authorized in P.L.   , c.   (C.   ) (pending before the</u>

Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.[1]

(cf: P.L.2023, c.197, s.13)

2. (New section) As used in sections 2 through 5 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Low income housing tax credit" means a tax credit provided through the federal Low Income Housing Tax Credit program pursuant to section 42 of the Internal Revenue Code (26 U.S.C. s.42).

"Project financing gap" means the same as the term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323).

"Qualified project" means a housing project that satisfies all eligibility requirements, as determined by the agency, for the receipt of a nine-percent low income housing tax credit, notwithstanding the availability or unavailability of such funds.

3. (New section) a. Notwithstanding any provision of law or regulation to the contrary, the agency may award the total amount of tax credits allocated to the agency pursuant to subparagraph (e) of

paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362) in accordance with the provisions of this section.

b. The agency may award project financing tax credits to the developers of qualified projects, which tax credits shall supplement the value of any four-percent low income housing tax credits previously awarded to the developer for the qualified project, subject to the provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. In addition to any other eligibility requirements that the agency may deem appropriate, the tax credits authorized under this section shall be available to any developer of a qualified project that:

(1) received a four-percent low income housing tax credit for the qualified project from the agency due to the total demand for nine-percent low income housing tax credits exceeding the total value of such tax credits available for distribution by the agency, as made available to the agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. s.42); and

(2) demonstrates the existence of a project financing gap for the qualified project.

d. The total value of tax credits awarded to a developer shall equal the lesser of:

(1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent low-income housing tax credit for the qualified project; or

(2) the amount of the project financing gap for the qualified project.

e. (1) All tax credits authorized pursuant to this section shall be awarded upon application to the agency, which applications shall be submitted in a form and manner prescribed by the agency. Notwithstanding any provision of law or regulation to the contrary, the agency may award some or all of the tax credits authorized under this section as part of an existing program operated by the agency on or before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) or through the establishment of a new program to effectuate the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Upon approval of any application for tax credits pursuant to this section, and upon the satisfaction of such additional requirements as the agency deems appropriate, the agency shall provide the tax credit recipient and the director with a certificate of compliance indicating the amount of tax credits that the recipient may apply against the recipient's tax liability, subject to the provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

4. (New section) a. The tax credits issued by the agency pursuant to section 3 of P.L. , c. (C.) (pending before the

Legislature as this bill) may be applied against a developer's tax liability under 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. To claim the tax credit amount for a privilege period, the developer shall submit to the director the certificate of compliance issued by the agency pursuant to paragraph (2) of subsection e. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. (1) The director shall prescribe the order of priority of the application of the tax credit allowed under this section, together with any other credits allowed by law, against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period. 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, 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).

(2) A developer may carry forward any unused tax credit resulting from the limitations of paragraph (1) of this subsection or from the insufficiency of a tax liability, as applicable, for use in the five privilege periods next following the privilege period for which the credits are awarded.

(3) 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 accompanied by any additional information as the director may prescribe.

c. (1) A developer may apply to the director and the agency for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. An application for a tax credit transfer certificate shall not be approved unless the agency affirmatively determines, based on such considerations as the agency deems appropriate, that the sale or assignment of the tax credit transfer certificate is socially beneficial to the State.

(2) Upon approval of a developer's application for a tax credit transfer certificate, and upon receipt thereof by the developer from the director and the agency, the tax credit transfer certificate may be sold or assigned, in full or in part, for an amount not less than $25,000, in the privilege period during which the developer receives the tax credit transfer certificate 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, subject to the carry-forward authorizations set forth in paragraph (2) of subsection b. of this section. The certificate

provided to the developer shall include a statement waiving the developer's right to claim the amount of the tax credit that the developer has elected to sell or assign against the developer's tax liability.

(3) The developer shall not sell or assign, including a 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 that shall be permitted.

(4) 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.

5. (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 agency may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the agency deems necessary to implement the provisions 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. Thereafter, the agency shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

6. This act shall take effect immediately.

[Second Reprint]

ASSEMBLY, No. 3128

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:
Assemblyman CRAIG J. COUGHLIN
District 19 (Middlesex)
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Assemblywoman ELIANA PINTOR MARIN
District 29 (Essex and Hudson)
Senator M. TERESA RUIZ
District 29 (Essex and Hudson)
Senator NICHOLAS P. SCUTARI
District 22 (Somerset and Union)
Senator TROY SINGLETON
District 7 (Burlington)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

Co-Sponsored by:
Assemblyman Atkins, Assemblywoman Park, Assemblyman Verrelli, Assemblywomen Collazos-Gill, Speight and Senator McKnight

SYNOPSIS

Authorizes HMFA to use certain tax credits; directs HMFA to conduct tax credit auctions to provide financial assistance for certain housing purposes.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 26, 2025, with amendments.

(Sponsorship Updated As Of: 6/30/2025)

AN ACT concerning the [2]**[**issuance**]** <u>use</u>[2] of [2]**[**certain**]**[2] tax credits [2]<u>for certain housing programs</u>[2], amending P.L.2020, c.156, and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

[1]**[**1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the following annual limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

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 <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AHO committee amendments adopted January 29, 2024.
[2]Senate SBA committee amendments adopted June 26, 2025.

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $200 million, except that during each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any of the first six years of the nine-year period, the authority awards tax credits in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be **[**available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits from any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located**]** reallocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for the purposes authorized in P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the “New Jersey Economic Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-

322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation,

except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual

limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

(cf: P.L.2023, c.98, s.13)**]**[1]

[2]**[**[1]1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4) **[**,**]** ; and the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.   ), shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) and the “Cultural Arts

Incentives Program Act," P.L.2023, c.197 (C.   ), subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.   ), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be ⟦available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located] reallocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for the purposes authorized in P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey

Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.[1]

(cf: P.L.2023, c.197, s.13)**]**[2]

[2]**[**2. (New section) As used in sections 2 through 5 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Low income housing tax credit" means a tax credit provided through the federal Low Income Housing Tax Credit program pursuant to section 42 of the Internal Revenue Code (26 U.S.C. s.42).

"Project financing gap" means the same as the term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323).

"Qualified project" means a housing project that satisfies all eligibility requirements, as determined by the agency, for the receipt of a nine-percent low income housing tax credit, notwithstanding the availability or unavailability of such funds.][2]

[2][3. (New section) a. Notwithstanding any provision of law or regulation to the contrary, the agency may award the total amount of tax credits allocated to the agency pursuant to subparagraph (e) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362) in accordance with the provisions of this section.

b. The agency may award project financing tax credits to the developers of qualified projects, which tax credits shall supplement the value of any four-percent low income housing tax credits previously awarded to the developer for the qualified project, subject to the provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. In addition to any other eligibility requirements that the agency may deem appropriate, the tax credits authorized under this section shall be available to any developer of a qualified project that:

(1) received a four-percent low income housing tax credit for the qualified project from the agency due to the total demand for nine-percent low income housing tax credits exceeding the total value of such tax credits available for distribution by the agency, as made available to the agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. s.42); and

(2) demonstrates the existence of a project financing gap for the qualified project.

d. The total value of tax credits awarded to a developer shall equal the lesser of:

(1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent low-income housing tax credit for the qualified project; or

(2) the amount of the project financing gap for the qualified project.

e. (1) All tax credits authorized pursuant to this section shall be awarded upon application to the agency, which applications shall be submitted in a form and manner prescribed by the agency. Notwithstanding any provision of law or regulation to the contrary, the agency may award some or all of the tax credits authorized under this section as part of an existing program operated by the agency on or before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) or through the establishment of a new program to effectuate the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Upon approval of any application for tax credits pursuant to this section, and upon the satisfaction of such additional requirements as the agency deems appropriate, the agency shall provide the tax credit recipient and the director with a certificate of

compliance indicating the amount of tax credits that the recipient may apply against the recipient's tax liability, subject to the provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).][2]

[2][4. (New section) a. The tax credits issued by the agency pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) may be applied against a developer's tax liability under 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. To claim the tax credit amount for a privilege period, the developer shall submit to the director the certificate of compliance issued by the agency pursuant to paragraph (2) of subsection e. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. (1) The director shall prescribe the order of priority of the application of the tax credit allowed under this section, together with any other credits allowed by law, against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period. 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, 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).

(2) A developer may carry forward any unused tax credit resulting from the limitations of paragraph (1) of this subsection or from the insufficiency of a tax liability, as applicable, for use in the five privilege periods next following the privilege period for which the credits are awarded.

(3) 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 accompanied by any additional information as the director may prescribe.

c. (1) A developer may apply to the director and the agency for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. An application for a tax credit transfer certificate shall not be approved unless the agency affirmatively determines, based on such considerations as the agency deems appropriate, that the sale or assignment of the tax credit transfer certificate is socially beneficial to the State.

(2) Upon approval of a developer's application for a tax credit transfer certificate, and upon receipt thereof by the developer from the director and the agency, the tax credit transfer certificate may be sold or assigned, in full or in part, for an amount not less than

$25,000, in the privilege period during which the developer receives the tax credit transfer certificate 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, subject to the carry-forward authorizations set forth in paragraph (2) of subsection b. of this section. The certificate provided to the developer shall include a statement waiving the developer's right to claim the amount of the tax credit that the developer has elected to sell or assign against the developer's tax liability.

(3) The developer shall not sell or assign, including a 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 that shall be permitted.

(4) 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.**]**[2]

[2]**[**5. (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 agency may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the agency deems necessary to implement the provisions 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. Thereafter, the agency shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).**]**[2]

[2]1. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

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

(2) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an

amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director.

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

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276);

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

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

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

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

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

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

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

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

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

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

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

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.)<u>; and</u>

<u>(14) sections 3 through 7 of P.L. , c. (C. through) (pending before the Legislature as this bill)</u>.[2]

(cf: P.L.2025, c.2, s.9)

[2]2. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); ⟦and⟧ the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ C.34:1B-394 et al.); and P.L. , c. (C.) (pending before the Legislature as this bill) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), ⟦and⟧ the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ C.34:1B-394 et al.), and P.L. , c. (C.) (pending before the Legislature as this bill), shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) (i) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $100,000,000;

(ii) from the tax credits made available to the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the sum of $200,000,000 in tax credits shall be allocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill). All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L. , c. (C) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ <u>C.34:1B-394 et al.</u>), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b);

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State; [and]

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 [(C.34:1B-362 et seq.)] (C.34:1B-394 et al.); and

(l) once the tax credits allocated for competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill) pursuant to subsubparagraph (ii) of subparagraph (b) of this paragraph are exhausted, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, the sum of $300,000,000 shall be made available to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill). The amount made available pursuant to this subparagraph shall be allocated in annual instalments, each of which is not to exceed the cap set forth in paragraph (3) of subsection a. of section 4 of P.L. , c. (pending before the Legislature as this bill), as needed to conduct auctions pursuant to that section. All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L. , c. (C) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic

Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners, $250,000,000 for New Jersey film-lease production companies, and $300,000,000 for taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.[2]

(cf: P.L.2024, c.49, s.10)

[2]3. (New section) As used in sections 4 through 7 of P.L. , c. (C. through) (pending before the Legislature as this bill):

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

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

"Distressed older suburban municipality" means a municipality that is not designated by the agency as a targeted urban municipality, and that, in the determination of the agency, meets at least four of the following criteria:

a. has experienced a sustained drop in income levels compared to the region;

b. has an elevated percentage of residents living below 100 percent of the poverty line, adjusted for family size, established and adjusted under section 673 of the federal "Community Services Block Grant Act," (42 U.S.C. s.9902);

c. experiences high rates of unemployment or low labor force participation rates;

d. has a large share of homes built before 1960 and elevated rates of residential property vacancy and abandonment;

e. experiences stagnant or declining property values;

f. experiences declining commercial ratables; and

g. experiences declining municipal capacity as a consequence of budget stress.

"Four-Percent Low Income Housing Tax Credit" means the four-percent allocation from the federal Low Income Housing Tax Credit program established pursuant to section 42 of the federal Internal Revenue Code (26 U.S.C. s.42).

"Low- and moderate-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 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.

"Middle-income 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 80 percent or more, but not exceeding 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

"Targeted urban municipality" means the same as that term is defined by the agency pursuant to N.J.A.C.5:80-33.2, or successor regulation.[2]

[2]4. (New section) a. (1) Beginning on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the agency shall sell up to $500,000,000 in tax credits over the course of no more than six years.

(2) The competitive auctions shall be conducted in a manner consistent with the processes set forth in section 24 of P.L.2020, c.156 (C.34:1B-292), as determined by the agency. The agency shall be permitted to join or be added to any contracts that the New Jersey Economic Development Authority has utilized for its auctions, although auctions held for the purposes of administering P.L. , c. (C.) (pending before the Legislature as this bill) shall not be counted towards the limitation imposed pursuant to subsection d. of section 24 of P.L.2020, c.156 (C.34:1B-292) and the requirement on purchasers under paragraph (3) of subsection b. of section 24 of P.L.2020, c.156 (C.34:1B-292) shall not apply.

The agency shall deposit funds received at an auction pursuant to this subsection minus those reserved for administrative or operational costs into a nonlapsing account established and maintained by the agency for the purposes of administering P.L. , c. (C.) (pending before the Legislature as this bill).

(3) The agency shall be limited to selling $100,000,000 in tax credits annually and shall not sell tax credits for less than 80 percent of the tax credit amount.

b. (1) (a) Fifty percent of the proceeds deposited into the nonlapsing account created pursuant to paragraph (2) of subsection a. of this section shall be reserved for use by the agency for the purposes of providing financial assistance to create middle-income workforce housing. Fifty percent of the proceeds deposited into the nonlapsing account created pursuant to paragraph (2) of subsection a. of this section shall be reserved for use by the agency for the purposes of providing financial assistance to create low- and moderate-income housing toward the fulfillment of a municipality's current or prior round fair share affordable housing obligation pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

(b) The 50 percent set asides established by subparagraph (a) of this paragraph for monies deposited into the nonlapsing account in each program funding year, pursuant to paragraph (2) of subsection a. of this section, shall remain in effect until December 31 of that year. If any funds deposited into the nonlapsing account during that program funding year remain unreserved for qualified projects subject to the set asides after December 31 of the program funding year when the monies are deposited, the set aside shall no longer apply to those funds, which may then be used for any qualified project under sections 4 through 7 of P.L. , c. (C. through) (pending before the Legislature as this bill). The initial program funding year shall begin on July 1, 2025, and shall conclude on December 31, 2025. Each subsequent program funding year shall conform to the calendar year.

(c) In the distribution of proceeds pursuant to this section for the purposes of providing financial assistance to create low- and moderate-income housing toward the fulfillment of a municipality's current or prior round fair share affordable housing obligation pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), the agency shall prioritize an application for development that is in a distressed older suburban municipality, as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

(d) Housing created pursuant to this section may include, but shall not be limited to, new construction or the rehabilitation or construction of residential units within multiple dwellings.

(e) Following the enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the agency shall promptly and actively promote the middle-income workforce housing component of the housing program established pursuant to this section to ensure that a substantial range of potential applicants to obtain funding to provide middle-income workforce housing are made aware of the program. The promotion efforts of the agency shall include, but shall not be limited to: the provision of information sessions on the program and application process; and the provision of technical assistance to applicants in completing the application process.

(2) The agency shall promulgate guidelines for a housing program to fulfill the purposes of this section within 90 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) to govern the application and award processes for qualified projects seeking funds deposited under P.L. , c. (C.) (pending before the Legislature as this bill). In addition to any other eligibility requirements that the agency deems appropriate, the project financing subsidy authorized under this section shall only be made available to projects in receipt of a Four-Percent Low Income Housing Tax Credit administered by the agency.

(3) The agency may utilize up to five percent of the proceeds to reimburse for administrative and operational costs, including contracts necessary to hold the auction.[2]

[2]5. (New section) A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall enter into a contract with the agency that includes payment information and the commitments made by the purchaser in its auction bid. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall pay by wire transfer the amount specified in its auction bid to the agency. Upon receipt thereof, the Executive Director of the agency shall notify the director to issue tax credits in the amount approved. Failure by the purchaser to pay the amount agreed upon on time shall disqualify the purchaser from purchasing the tax credits and the agency may reassign the right to purchase the credits to another bidder. Failure by the purchaser to adhere to the commitments made in its auction bid shall disqualify the purchaser from participating in future auctions and may result in the recapture of a portion of the tax credits.[2]

[2]6. (New section) a. A purchaser shall apply a credit awarded pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) against the purchaser's State tax liability due 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 for the current privilege period as of the date of the approval of the credits. A purchaser may carry forward an unused credit resulting from the limitations of subsection b. of this section, if necessary, for use in the seven privilege periods next following the privilege period for which the credit is awarded.

b. The director shall prescribe the order of priority of the application of the credits awarded under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other credits allowed by law. The amount of a credit applied under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) 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 of the purchaser 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).[2]

[2]7. (New section) a. A purchaser may apply to the agency and the director for a tax credit transfer certificate in lieu of the purchaser being allowed to apply any amount of the tax credit against the purchaser's State tax liability. A tax credit may be sold or assigned, in full or in part, to another person that may have 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 purchaser shall include a statement waiving the purchaser's right to claim the credit that the purchaser has elected to sell or assign.

b. The purchaser shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the purchaser of less than 80 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 purchaser by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 6 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 buyer 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. Ten percent of the consideration received by a purchaser from the sale or assignment of a tax credit transfer certificate pursuant to this section shall be remitted to the director and deposited in the General Fund of the State.

e. The agency shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the agency 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;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.[2]

[2]**[**6.**]** 8.[2] This act shall take effect immediately.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3128

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 29, 2024

The Assembly Housing Committee reports favorably and with committee amendments Assembly Bill No. 3128.

As amended, this bill authorizes the New Jersey Housing and Mortgage Finance Agency (HMFA) to issue project financing tax credits to support the development of certain housing projects.

Specifically, the bill permits the HMFA to award project financing tax credits to the developers of certain qualified projects that: (1) have received a four-percent federal low income housing tax credit (LIHTC) when the total demand for nine-percent LIHTC exceeds the total value available for distribution; and (2) have a project financing gap demonstrated by the developer at the time of application. The total tax credit award may not exceed the lesser of: (1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent LIHTC for the qualified project; or (2) the amount of the project financing gap for a qualified project.

The bill provides that the HMFA may award some or all of these tax credits as part of an existing program operated by the HMFA or through the establishment of a new program to effectuate the provisions of this bill. The bill also provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in the bill.

Under the bill, the uncommitted balance of tax credits otherwise authorized to be awarded by the New Jersey Economic Development Authority (EDA) under the Community-Anchored Development Program would be annually reallocated to the HMFA to support the purposes set forth in this bill. Under current law, the EDA may annually award up to $200 million in tax credits under the Community-Anchored Development Program, including up to $130 million in the northern counties of the State and up to $70 million in the southern counties of the State, beginning on January 1, 2026 through the conclusion of the nine-year authorization period set forth in the “Economic Recovery Act of 2020.” If during any of these years, the EDA awards less than the annual limitation of tax credits for either geographic region, the bill provides that the uncommitted balance of tax credits would be annually reallocated to the HMFA to support the purposes of this bill.

This bill was pre-filed for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments clarify the manner in which the uncommitted balance of tax credits would be reallocated from the Community-Anchored Development Program to the HMFA in light of the recent enactment of P.L.2023, c.197, which provides that tax credits may not be awarded under the Community-Anchored Development Program until January 1, 2026. The committee amendments provide that beginning after January 1, 2026, if during any year of operation of the Community-Anchored Development Program, the EDA awards less than the annual limitation of tax credits for the northern counties of the State or the southern counties of the State, respectively, then the uncommitted balance of tax credits would be reallocated to the HMFA to support the purposes of this bill.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3128

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 2024

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3128 (1R).

This bill authorizes the New Jersey Housing and Mortgage Finance Agency (HMFA) to issue project financing tax credits to support the development of certain housing projects.

Specifically, the bill permits the HMFA to award project financing tax credits to the developers of certain qualified projects that: (1) have received a four-percent federal low income housing tax credit (LIHTC) when the total demand for nine-percent LIHTC exceeds the total value available for distribution; and (2) have a project financing gap demonstrated by the developer at the time of application. The total tax credit award may not exceed the lesser of: (1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent LIHTC for the qualified project; or (2) the amount of the project financing gap for a qualified project.

The bill provides that the HMFA may award some or all of these tax credits as part of an existing program operated by the HMFA or through the establishment of a new program to effectuate the provisions of this bill. The bill also provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in the bill.

Under the bill, the uncommitted balance of tax credits otherwise authorized to be awarded by the New Jersey Economic Development Authority (EDA) under the Community-Anchored Development Program would be annually reallocated to the HMFA to support the purposes set forth in this bill. Under current law, the EDA may annually award up to $200 million in tax credits under the Community-Anchored Development Program, including up to $130 million in the northern counties of the State and up to $70 million in the southern counties of the State, beginning on January 1, 2026 through the conclusion of the nine-year authorization period set forth in the “Economic Recovery Act of 2020.” If during any of these years, the EDA awards less than the annual limitation of tax credits for either geographic region, the bill provides that the uncommitted balance of tax credits would be annually reallocated to the HMFA to support the purposes of this bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill may result in annual State revenue decreases in an indeterminate amount associated with certain tax credits being made available for a broader purpose and in a larger area of the State. This potential impact is expected for a period of four years beginning in CY 2027.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3128

STATE OF NEW JERSEY

DATED: MAY 6, 2024

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 3128 (1R).

This bill authorizes the New Jersey Housing and Mortgage Finance Agency (HMFA) to issue project financing tax credits to support the development of certain housing projects.

Specifically, the bill permits the HMFA to award project financing tax credits to the developers of certain qualified projects that: (1) have received a four-percent federal low income housing tax credit (LIHTC) when the total demand for nine-percent LIHTC exceeds the total value available for distribution; and (2) have a project financing gap demonstrated by the developer at the time of application. The total tax credit award may not exceed the lesser of: (1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent LIHTC for the qualified project; or (2) the amount of the project financing gap for a qualified project.

The bill provides that the HMFA may award some or all of these tax credits as part of an existing program operated by the HMFA or through the establishment of a new program to effectuate the provisions of this bill. The bill also provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in the bill.

Under the bill, the uncommitted balance of tax credits otherwise authorized to be awarded by the New Jersey Economic Development Authority (EDA) under the Community-Anchored Development Program would be annually reallocated to the HMFA to support the purposes set forth in this bill. Under current law, the EDA may annually award up to $200 million in tax credits under the Community-Anchored Development Program, including up to $130 million in the northern counties of the State and up to $70 million in the southern counties of the State, beginning on January 1, 2026 through the conclusion of the nine-year authorization period set forth in the "Economic Recovery Act of 2020." If during any of these years the EDA awards less than the annual limitation of tax credits for either geographic region, the bill provides that the uncommitted balance of tax credits would be annually reallocated to the HMFA to support the purposes of this bill.

As reported by the committee, Assembly Bill No. 3128 (1R) is identical to Senate Bill No. 3155, which was amended and reported by the committee on this date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3128

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2025

The Senate Budget and Appropriations Committee reports favorably and with committee amendments, Assembly Bill No. 3128 (1R).

As amended, this bill reallocates $500 million in tax credits to the New Jersey Housing and Mortgage Finance Agency (HMFA) for sale through a competitive tax credit auction. Of this tax credit reallocation, $200 million are to be reallocated from the "Brownfields Redevelopment Incentive Program Act." Once this initial allocation is exhausted, $300 million are to be made available from the "New Jersey Aspire Program Act" and "Emerge Program Act."

Under this bill, $500 million in tax credits are to be transferred from these programs to the HMFA to support the development of certain housing development projects in the State. Specifically, the proceeds would support the creation of middle-income workforce housing programs administered by the HMFA and low- and moderate-income housing. The bill specifies that the tax credits reallocated to the HMFA are not subject to any requirements or conditions originally imposed on the tax credits under the “New Jersey Economic Recovery Act of 2020.”

Specifically, this bill requires the HMFA to sell up to $500 million in tax credits through a competitive auction process. Under the bill, these auctions are to be conducted in a manner consistent with the auctions held by the New Jersey Economic Development Authority (EDA) under the New Jersey Innovation Evergreen Program, as determined by the HMFA. The bill provides that the tax credits may not be sold for a consideration less than 80 percent of the tax credit amount, and no more than $100 million in tax credits may be sold at auction annually. The bill provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in this bill. Additionally, the bill requires that the HMFA be permitted to join or be added to any contracts the EDA has used for its auctions, and allows HMFA certain exceptions to auction processes and purchaser requirements.

The bill requires HMFA to use 50 percent of the proceeds of tax credit auctions to provide financial assistance to create middle-income workforce housing, which may include new construction or the rehabilitation or construction of residential units within multiple dwellings. The bill defines “middle-income workforce housing” to mean 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 80 percent or more, but not exceeding 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located. The bill also requires 50 percent of tax credit proceeds to be used for the creation of low- and moderate-income housing toward the fulfillment of a municipality’s current or prior round fair share affordable housing obligation pursuant to the "Fair Housing Act," (FHA) P.L.1985, c.222 (C.52:27D-301 et al.).

The bill provides that the 50 percent set aside requirements, for middle-income workforce housing and low- and moderate-income housing, are to remain in effect until the end of the calendar year, beginning with 2025, during which the tax credit monies have been made available and deposited with HMFA for the purposes of the bill. If any funds deposited with HMFA remain unreserved for qualified projects subject to the set asides after December 31 of the year when the monies are deposited, the set aside is to no longer apply to those funds, which may then be used for any qualified project, either middle-income workforce housing or low- and moderate-income housing, as determined by HMFA.

The bill requires that, in the distribution of proceeds to create low- and moderate-income housing, an application for development is to be prioritized if located in a “distressed older suburban municipality,” as defined in the bill.

The bill directs HMFA to promptly and actively promote the middle-income workforce housing component of the bill to ensure that a substantial range of potential applicants are made aware of the program.

The bill requires the HMFA to promulgate guidelines for a housing program to govern the application and award processes for projects seeking funds under the provisions of this bill.

As amended and reported by the committee, Assembly Bill No. 3128 (1R) is identical to the Senate Committee Substitute for Senate Bill Nos. 4071 and 3155, as was reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments to the bill accomplish the following:

- specify that the source of the allocation provided in the bill is to be made available from funding authorized for the "New Jersey Aspire Program Act," the "Emerge Program Act," and the "Brownfields Redevelopment Incentive Program Act";

- adjust the allocation of tax credit proceeds to allow up to $500 million to be allocated in total, and no more than $100 million per year;
- provide that the tax credits may not be sold for less than 80 percent of the tax credit amount, and specify certain auction processes and purchaser requirements;
- provide for 50 percent of tax credit allocations to be allocated to middle-income workforce housing, and 50 percent of the tax credit allocations to be allocated to low- and moderate-income housing toward the fulfillment of a fair share plan of a municipality pursuant to the FHA;
- provide that, if any funds deposited with HMFA remain unreserved for qualified projects subject to the 50 percent set asides after December 31 of the year when the monies are deposited, the set aside is to no longer apply to those funds;
- require that, in the distribution of proceeds to create low- and moderate-income housing, an application for development is to be prioritized if located in a "distressed older suburban municipality," as defined in the bill;
- direct HMFA to promptly and actively promote the middle-income workforce housing component of the bill;
- adjust certain provisions of the bill specifying administrative procedure requirements;
- adjust certain details concerning how tax credits are auctioned, awarded, and transferred from HMFA;
- require HMFA to publish certain information on its Internet website concerning tax credit transfers;
- adjust definitions used in the bill to accommodate other changes to the bill; and
- make technical changes, including an update to an underlying statute in light of a recent enactment of law.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3128

STATE OF NEW JERSEY

221st LEGISLATURE

DATED: FEBRUARY 7, 2024

SUMMARY

Synopsis:	Authorizes HMFA to issue tax credits for certain purposes.
Type of Impact:	Potential State revenue decrease.
Agencies Affected:	New Jersey Housing and Mortgage Finance Agency; Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	**CY 2027 through CY 2030**
Potential State Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill may result in annual State revenue decreases in an indeterminate amount associated with certain tax credits being made available for a broader purpose and in a larger area of the State. This potential impact is expected for a period of four years beginning in CY 2027.

BILL DESCRIPTION

The bill authorizes the New Jersey Housing and Mortgage Finance Agency (HMFA) to issue project financing tax credits to support the development of certain housing projects.

Specifically, the bill permits the HMFA to award project financing tax credits to the developers of certain qualified projects that: (1) have received a four-percent federal low income housing tax credit when the total demand for nine-percent low income housing tax credit exceeds the total value available for distribution; and (2) have a project financing gap demonstrated by the developer at the time of application. The total tax credit award may not exceed the lesser of: (1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent low income housing tax credit for the qualified project; or (2) the amount of the project financing gap for a qualified project.

The bill provides that the HMFA may award some or all of these tax credits as part of an existing program operated by the HMFA or through the establishment of a new program to effectuate the provisions of this bill. The bill also provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in the bill.

Under the bill, the uncommitted balance of tax credits otherwise authorized to be awarded by the New Jersey Economic Development Authority under the Community-Anchored Development Program would be annually reallocated to the HMFA to support the purposes set forth in this bill. Under current law, the authority may annually award up to $200 million in tax credits under the Community-Anchored Development Program, including up to $130 million in the northern counties of the State and up to $70 million in the southern counties of the State, beginning on January 1, 2026 through the conclusion of the nine-year authorization period set forth in the Economic Recovery Act of 2020. If during any of these years, the authority awards less than the annual limitation of tax credits for either geographic region, the bill provides that the uncommitted balance of tax credits would be annually reallocated to the HMFA to support the purposes of this bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill may result in annual State revenue decreases in an indeterminate amount associated with certain tax credits being made available for a broader purpose and in a larger area of the State. This potential impact is expected for a period of four years beginning in CY 2027.

Current law authorizes the Economic Development Authority to award up to $1.2 billion in tax credits over a nine-year period, which began in 2021, through the Community-Anchored Development Program. The authority is required to annually award tax credits valuing no greater than $130 million for projects located in the 13 northern counties of the State and $70 million for projects located in the eight southern counties of the State. Tax credits not awarded may be carried forward for issuance in a subsequent year without regard to the county in which a projected is located. Tax credits may be awarded to support community-anchored projects. Under current law, a community-anchored project is a capital project that is located in a certain designated area (such as an opportunity zone, Planning Area 1, or a municipality with a high Municipal Revitalization Index Score) and will result in capital investment of at least $10 million in a State opportunity zone. If the project is not located in an opportunity zone, it must be primarily designed to result in the economic expansion of a targeted industry in this State.

The bill reallocates the amount of any remaining tax credits, up to the annual limits originally authorized under the Community-Anchored Development Act, to the HMFA and allows the HMFA to issue those tax credits to support the development of certain housing projects. These tax credits may be awarded to support qualified housing projects in any area of the State. Reallocating these tax credits to HMFA broadens the purposes for which the tax credits may be used and allows them to be used in more areas of the State than currently permitted. While the OLS cannot predict the amount of tax credits that may be transferred from the Community-Anchored Development Program to the HMFA, the transfer of unused tax credits, and the utilization of those tax credits to support qualified housing projects could potentially result in State revenue losses that may not otherwise occur under current law.

Section: *Local Government*

Analyst: *Grace Ahlin*
Assistant Fiscal Analyst

Approved: *Thomas Koenig*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 4071

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JANUARY 30, 2025

Sponsored by:
Senator M. TERESA RUIZ
District 29 (Essex and Hudson)
Senator NICHOLAS P. SCUTARI
District 22 (Somerset and Union)

Co-Sponsored by:
Senators McKnight and Wimberly

SYNOPSIS

Authorizes HMFA to use certain tax credits; directs HMFA to conduct tax credit auctions to provide financial assistance for middle-income workforce housing purposes.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/12/2025)

AN ACT concerning the use of tax credits for certain housing programs, amending P.L.2020, c.156 (C.34:1B-269 et al.), and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

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

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345).

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

(1) the "Historic Property Reinvestment Act," sections 【1】 <u>2</u> through 8 of P.L.2020, c.156 (【C.34:1B-269】 <u>C.34:1B-270</u> through C.34:1B-276);

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

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

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

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

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

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

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

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

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

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 <u>thus</u> is new matter.

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

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

(13) sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

2. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); ⟦and⟧ the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ C.34:1B-394 et al.); and P.L. , c. (C.) (pending before the Legislature as this bill) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), ⟦and⟧ the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ C.34:1B-394 et al.), and P.L. , c. (C.) (pending before the Legislature as this bill), shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) (i) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed **[**$1,200,000,000**]** $800,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation, up to the aggregate value of tax credits authorized by this sub-subparagraph, shall be available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located;

(ii) for tax credits awarded under P.L. , c. (C.) (pending before the Legislature as this bill), the sum of $400,000,000 in tax credits shall be allocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill). All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L. , c. (C) (pending before the Legislature as this bill);

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ C.34:1B-394 et al.), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b);

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State; and

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 ([C.34:1B-362 et seq.] C.34:1B-394 et al.).

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners, $250,000,000 for New Jersey film-lease production companies, and $300,000,000 for taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

(cf: P.L.2024, c.49, s.10)

3. (New section) As used in sections 4 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Middle-income workforce housing" means housing that is deed-restricted for occupancy by households with a gross household income of 80 percent or more, but not exceeding 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

4. (New section) a. Beginning on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the agency shall sell up to $400,000,000 in tax credits, subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362), to purchasers through a competitive auction process. The competitive auctions shall be conducted, in consultation with the New Jersey Economic Development Authority, in a manner consistent with the processes set forth in section 24 of P.L.2020, c.156 (C.34:1B-292), as determined by the agency, except that agency shall not sell tax credits for less than 85 percent of the tax credit amount, and the agency shall not sell more than $75 million in tax credits annually.

b. (1) The proceeds from the sale of tax credits at each auction shall be reserved for use by the agency for the purposes of providing financial assistance to support the development of middle-income workforce housing in the State, including but not limited to, the rehabilitation or construction of residential units within multiple dwellings located within areas with proximity to existing public transportation or job opportunities.

(2) Subject to the requirements of this subsection, the agency may use some or all of the proceeds of the tax credit auctions as part of an existing program operated by the agency on or before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) or through the establishment of a new program to effectuate the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

5. (New section) A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall enter into a contract with the agency that includes payment information and the commitments made by the purchaser in its auction bid. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall pay by wire transfer the amount specified in its auction bid to the agency. Upon receipt thereof, the Executive Director of the agency shall notify the director to issue tax credits in the amount approved. Failure by the purchaser to pay the amount agreed upon on time shall disqualify the purchaser from purchasing the tax credits and the authority may reassign the right to purchase the

credits to another bidder. Failure by the purchaser to adhere to the commitments made in its auction bid shall disqualify the purchaser from participating in future auctions and may result in the recapture of a portion of the tax credits.

6. (New section) a. A purchaser shall apply a credit awarded pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) against the purchaser's State tax liability due 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 for the current privilege period as of the date of the approval of the credits. A purchaser may carry forward an unused credit resulting from the limitations of subsection b. of this section, if necessary, for use in the seven privilege periods next following the privilege period for which the credit is awarded.

b. The director shall prescribe the order of priority of the application of the credits awarded under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other credits allowed by law. The amount of a credit applied under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) 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 of the purchaser 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).

7. (New section) a. A purchaser may apply to the agency and the director for a tax credit transfer certificate in lieu of the purchaser being allowed to apply any amount of the tax credit against the purchaser's State tax liability. A tax credit may be sold or assigned, in full or in part, to another person that may have 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 purchaser shall include a statement waiving the purchaser's right to claim the credit that the purchaser has elected to sell or assign.

b. The purchaser shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the purchaser 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 purchaser by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 6 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 buyer 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. 10 percent of the consideration received by a purchaser from the sale or assignment of a tax credit transfer certificate pursuant to this section shall be remitted to the director and deposited in the General Fund of the State.

e. The agency shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the agency 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;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.

8. (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 Executive Director of the agency, in consultation with the Chief Executive Officer of the New Jersey Economic Development Authority, may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the Executive Director of the agency deems necessary to implement the provisions of sections 3 through 6 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 Executive Director of the agency 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.).

9. This act shall take effect immediately.

STATEMENT

This bill reallocates that $400 million in tax credits, which are currently authorized for the Community-Anchored Development Program and Cultural Arts Incentives Program, to the New Jersey Housing and Mortgage Finance Agency (HMFA) and sold through a competitive tax credit auction. The proceeds from the sale of tax credits at auction are to be used by the HMFA to support the development of middle-income workforce housing in the State.

Under current law, the "New Jersey Economic Recovery Act of 2020" has authorized $1.2 billion in tax credits over a nine-year period for the Community-Anchored Development Program. As amended by P.L.2023, c.197, the law also allows a portion of the tax credits allocated for the Community-Anchored Development Program to be used to support tax credit awards for projects through the Cultural Arts Incentives Program. However, tax credits are not authorized to be awarded under the Community-Anchored Development Program until beginning on January 1, 2026, and no projects have been awarded tax credits under the Cultural Arts Incentives Program as of November 2024. Under this bill, $400 million in tax credits will be transferred from these two programs to the HMFA in order to support middle-income workforce housing programs administered by the HMFA.

Specifically, this bill requires the HMFA to sell up to $400 million in tax credits through a competitive auction process. Under the bill, this auction is to be conducted in a manner consistent with the auctions held by the EDA under the New Jersey Innovation Evergreen Program, except that the tax credits could not be sold for a consideration less than 85 percent of the tax credit amount, and no more than $75 million in tax credits may be sold at auction annually. This bill also permits the Director of the Division of Taxation in the Department of the Treasury to purchase unused tax credits awarded under the provisions of this bill. The bill also provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in this bill.

Under the bill, the HMFA is required to use the proceeds of tax credit auctions for the purposes of providing financial assistance to support the development of middle-income workforce housing in the State, including, but not limited to, the rehabilitation or construction of residential units within multiple dwellings located within areas with proximity to existing public transportation and job opportunities. The bill defines “middle-income workforce housing” to mean housing that is deed-restricted for occupancy by households with a gross household income of 80 percent or more, but not exceeding 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

The bill provides that the HMFA may use the proceeds from the competitive tax credit auction to support an existing program operated by the HMFA or through the establishment of a new program to effectuate the provisions of this bill. Notably, the HMFA currently operates the Workforce Housing Program, which provides loans to fund eligible projects that include the rehabilitation and construction of residential units that are reserved for middle-income workforce housing, also known as workforce housing, within multiple dwellings located within areas with proximity to existing public transportation and job opportunities.

SENATE, No. 3155

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 6, 2024

Sponsored by:
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

SYNOPSIS

Authorizes HMFA to issue tax credits for certain purposes.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the issuance of certain tax credits, amending P.L.2020, c.156, and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4)**[**,**]**; and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

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.

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be ⟦available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located⟧ reallocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for the purposes authorized in P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the “New Jersey Economic Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections

68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation,

except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual

limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

(cf: P.L.2023, c.197, s.13)

2. (New section) As used in sections 2 through 5 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Low income housing tax credit" means a tax credit provided through the federal Low Income Housing Tax Credit program pursuant to section 42 of the Internal Revenue Code (26 U.S.C. s.42).

"Project financing gap" means the same as the term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323).

"Qualified project" means a housing project that satisfies all eligibility requirements, as determined by the agency, for the receipt of a nine-percent low income housing tax credit, notwithstanding the availability or unavailability of such funds.

3. (New section) a. Notwithstanding any provision of law or regulation to the contrary, the agency may award the total amount of tax credits allocated to the agency pursuant to subparagraph (e) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362) in accordance with the provisions of this section.

b. The agency may award project financing tax credits to the developers of qualified projects, which tax credits shall supplement the value of any four-percent low income housing tax credits previously awarded to the developer for the qualified project, subject to the provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. In addition to any other eligibility requirements that the agency may deem appropriate, the tax credits authorized under this section shall be available to any developer of a qualified project that:

(1) received a four-percent low income housing tax credit for the qualified project from the agency due to the total demand for nine-percent low income housing tax credits exceeding the total value of such tax credits available for distribution by the agency, as made available to the agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. s.42); and

(2) demonstrates the existence of a project financing gap for the qualified project.

d. The total value of tax credits awarded to a developer shall equal the lesser of:

(1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent low-income housing tax credit for the qualified project; or

(2) the amount of the project financing gap for the qualified project.

e. (1) All tax credits authorized pursuant to this section shall be awarded upon application to the agency, which applications shall be submitted in a form and manner prescribed by the agency. Notwithstanding any provision of law or regulation to the contrary, the agency may award some or all of the tax credits authorized under this section as part of an existing program operated by the agency on or before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) or through the establishment of a new program to effectuate the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Upon approval of any application for tax credits pursuant to this section, and upon the satisfaction of such additional requirements as the agency deems appropriate, the agency shall provide the tax credit recipient and the director with a certificate of compliance indicating the amount of tax credits that the recipient may apply against the recipient's tax liability, subject to the provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

4. (New section) a. The tax credits issued by the agency pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) may be applied against a developer's tax liability under 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. To claim the tax credit amount for a privilege period, the developer shall submit to the director the certificate of compliance issued by the agency pursuant to paragraph (2) of subsection e. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. (1) The director shall prescribe the order of priority of the application of the tax credit allowed under this section, together with any other credits allowed by law, against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period. 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, 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).

(2) A developer may carry forward any unused tax credit resulting from the limitations of paragraph (1) of this subsection or from the insufficiency of a tax liability, as applicable, for use in the five privilege periods next following the privilege period for which the credits are awarded.

(3) 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 accompanied by any additional information as the director may prescribe.

c. (1) A developer may apply to the director and the agency for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. An application for a tax credit transfer certificate shall not be approved unless the agency affirmatively determines, based on such considerations as the agency deems appropriate, that the sale or assignment of the tax credit transfer certificate is socially beneficial to the State.

(2) Upon approval of a developer’s application for a tax credit transfer certificate, and upon receipt thereof by the developer from the director and the agency, the tax credit transfer certificate may be sold or assigned, in full or in part, for an amount not less than $25,000, in the privilege period during which the developer receives the tax credit transfer certificate 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, subject to the carry-forward authorizations set forth in paragraph (2) of subsection b. of this section. The certificate provided to the developer shall include a statement waiving the developer's right to claim the amount of the tax credit that the

developer has elected to sell or assign against the developer's tax liability.

(3) The developer shall not sell or assign, including a 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 that shall be permitted.

(4) 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.

5. (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 agency may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the agency deems necessary to implement the provisions 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. Thereafter, the agency shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

6. This act shall take effect immediately.

STATEMENT

This bill authorizes the New Jersey Housing and Mortgage Finance Agency (HMFA) to issue project financing tax credits to support the development of certain housing projects.

Specifically, the bill permits the HMFA to award project financing tax credits to the developers of certain qualified projects that: (1) have received a four-percent federal low income housing tax credit (LIHTC) when the total demand for nine-percent LIHTC exceeds the total value available for distribution; and (2) have a project financing gap demonstrated by the developer at the time of application. The total tax credit award is not to exceed the lesser of: (1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent LIHTC for the qualified project; or (2) the amount of the project financing gap for a qualified project.

The bill provides that the HMFA may award some or all of these tax credits as part of an existing program operated by the HMFA or through the establishment of a new program to effectuate the provisions of this bill. The bill also provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in the bill.

Under the bill, the uncommitted balance of tax credits otherwise authorized to be awarded by the New Jersey Economic Development Authority (EDA) under the Community-Anchored Development Program are to be annually reallocated to the HMFA to support the purposes set forth in this bill. Under current law, the EDA may annually award up to $200 million in tax credits under the Community-Anchored Development Program, including up to $130 million in the northern counties of the State and up to $70 million in the southern counties of the State, beginning on January 1, 2026 through the conclusion of the nine-year authorization period set forth in the "Economic Recovery Act of 2020." If during any of these years the EDA awards less than the annual limitation of tax credits for either geographic region, the bill provides that the uncommitted balance of tax credits is to be annually reallocated to the HMFA to support the purposes of this bill.

[First Reprint]

SENATE, No. 3155

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 6, 2024

Sponsored by:
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

SYNOPSIS

Authorizes HMFA to issue tax credits for certain purposes.

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on May 6, 2024, with amendments.

(Sponsorship Updated As Of: 5/9/2024)

AN ACT concerning the issuance of certain tax credits, amending P.L.2020, c.156, and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

[1]**[**1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4)**[**,**]**<u>;</u> and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

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 <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SCU committee amendments adopted May 6, 2024.

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be ⟦available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located⟧ <u>reallocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for the purposes authorized in P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the “New Jersey Economic Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented</u>;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections

68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation,

except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual

limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

(cf: P.L.2023, c.197, s.13)**]**[1]

[1]1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4) **[**,**]** ; and the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.), shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) and the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.), subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.   ), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be **[**available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located**]** reallocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), for the purposes authorized in P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.[1]

(cf: P.L.2023, c.197, s.13)

2. (New section) As used in sections 2 through 5 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Low income housing tax credit" means a tax credit provided through the federal Low Income Housing Tax Credit program pursuant to section 42 of the Internal Revenue Code (26 U.S.C. s.42).

"Project financing gap" means the same as the term is defined in section 55 of P.L.2020, c.156 (C.34:1B-323).

"Qualified project" means a housing project that satisfies all eligibility requirements, as determined by the agency, for the receipt of a nine-percent low income housing tax credit, notwithstanding the availability or unavailability of such funds.

3. (New section) a. Notwithstanding any provision of law or regulation to the contrary, the agency may award the total amount of tax credits allocated to the agency pursuant to subparagraph (e) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362) in accordance with the provisions of this section.

b. The agency may award project financing tax credits to the developers of qualified projects, which tax credits shall supplement the value of any four-percent low income housing tax credits previously awarded to the developer for the qualified project, subject to the provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. In addition to any other eligibility requirements that the agency may deem appropriate, the tax credits authorized under this section shall be available to any developer of a qualified project that:

(1) received a four-percent low income housing tax credit for the qualified project from the agency due to the total demand for nine-percent low income housing tax credits exceeding the total value of such tax credits available for distribution by the agency, as made available to the agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. s.42); and

(2) demonstrates the existence of a project financing gap for the qualified project.

d. The total value of tax credits awarded to a developer shall equal the lesser of:

(1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent low-income housing tax credit for the qualified project; or

(2) the amount of the project financing gap for the qualified project.

e. (1) All tax credits authorized pursuant to this section shall be awarded upon application to the agency, which applications shall be submitted in a form and manner prescribed by the agency. Notwithstanding any provision of law or regulation to the contrary, the agency may award some or all of the tax credits authorized under this section as part of an existing program operated by the agency on or before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) or through the establishment of a new program to effectuate the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Upon approval of any application for tax credits pursuant to this section, and upon the satisfaction of such additional requirements as the agency deems appropriate, the agency shall provide the tax credit recipient and the director with a certificate of compliance indicating the amount of tax credits that the recipient may apply against the recipient's tax liability, subject to the provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

4. (New section) a. The tax credits issued by the agency pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) may be applied against a developer's tax

liability under 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. To claim the tax credit amount for a privilege period, the developer shall submit to the director the certificate of compliance issued by the agency pursuant to paragraph (2) of subsection e. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. (1) The director shall prescribe the order of priority of the application of the tax credit allowed under this section, together with any other credits allowed by law, against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period. 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, 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).

(2) A developer may carry forward any unused tax credit resulting from the limitations of paragraph (1) of this subsection or from the insufficiency of a tax liability, as applicable, for use in the five privilege periods next following the privilege period for which the credits are awarded.

(3) 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 accompanied by any additional information as the director may prescribe.

c. (1) A developer may apply to the director and the agency for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. An application for a tax credit transfer certificate shall not be approved unless the agency affirmatively determines, based on such considerations as the agency deems appropriate, that the sale or assignment of the tax credit transfer certificate is socially beneficial to the State.

(2) Upon approval of a developer's application for a tax credit transfer certificate, and upon receipt thereof by the developer from the director and the agency, the tax credit transfer certificate may be sold or assigned, in full or in part, for an amount not less than $25,000, in the privilege period during which the developer receives the tax credit transfer certificate 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, subject to the carry-forward authorizations set forth in paragraph (2) of subsection b. of this section. The certificate provided to the developer shall include a statement waiving the

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

(3) The developer shall not sell or assign, including a 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 that shall be permitted.

(4) 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.

5. (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 agency may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the agency deems necessary to implement the provisions 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. Thereafter, the agency shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

6. This act shall take effect immediately.

[First Reprint]

SENATE, No. 4071

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JANUARY 30, 2025

Sponsored by:
Senator M. TERESA RUIZ
District 29 (Essex and Hudson)
Senator NICHOLAS P. SCUTARI
District 22 (Somerset and Union)
Senator TROY SINGLETON
District 7 (Burlington)

Co-Sponsored by:
Senators McKnight and Wimberly

SYNOPSIS

Authorizes HMFA to use certain tax credits; directs HMFA to conduct tax credit auctions to provide financial assistance for middle-income workforce housing purposes.

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on May 12, 2025, with amendments.

(Sponsorship Updated As Of: 5/12/2025)

AN ACT concerning the use of tax credits for certain housing programs, amending P.L.2020, c.156 (C.34:1B-269 et al.), and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

[1]⟦1. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345).

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

(1) the "Historic Property Reinvestment Act," sections ⟦1⟧ <u>2</u> through 8 of P.L.2020, c.156 (⟦C.34:1B-269⟧ <u>C.34:1B-270</u> through C.34:1B-276);

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

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

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

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

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

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

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

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

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

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 <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SCU committee amendments adopted May 12, 2025.

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

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

(13) sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill).

(cf: P.L.2020, c.156, s.89)][1]

[1]1. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

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

(2) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director.

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

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276);

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

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

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

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

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

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

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

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

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

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

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

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and

(14) sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill).[1]

(cf: P.L.2025, c.2, s.9)

2. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); [and] the "Next New Jersey Program Act," P.L.2024, c.49 ([C.34:1B-362 et seq.] C.34:1B-394 et al.); and P.L. , c. (C.) (pending before the Legislature as this bill) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of

2020," P.L.2020, c.156 (C.34:1B-269 et al.), the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), ⟦and⟧ the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ <u>C.34:1B-394 et al.</u>), <u>and P.L. , c. (C.) (pending before the Legislature as this bill),</u> shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) <u>(i)</u> for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed ⟦$1,200,000,000⟧ <u>$800,000,000</u>; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation, up to the aggregate value of tax credits authorized by this sub-subparagraph, shall be available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located;

(ii) for tax credits awarded under P.L. , c. (C.) (pending before the Legislature as this bill), the sum of $400,000,000 in tax credits shall be allocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill). All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L. , c. (C) (pending before the Legislature as this bill) [1]. Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented[1] ;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ C.34:1B-394 et al.), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through

34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b);

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State; and

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ C.34:1B-394 et al.).

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners, $250,000,000 for New Jersey film-lease production companies, and $300,000,000 for taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

(cf: P.L.2024, c.49, s.10)

3. (New section) As used in sections 4 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

[1]″Four-Percent Low Income Housing Tax Credit″ means the four-percent allocation from the federal Low Income Housing Tax Credit program established pursuant to section 42 of the federal Internal Revenue Code (26 U.S.C. s.42).[1]

″Middle-income workforce housing″ means housing that is deed-restricted for occupancy by households with a gross household income of 80 percent or more, but not exceeding 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

4. (New section) a. [1](1)[1] Beginning on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the agency shall sell up to $400,000,000 in tax credits, subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362), to purchasers through a competitive auction process.

[1](2)[1] The competitive auctions shall be conducted, in consultation with the New Jersey Economic Development Authority, in a manner consistent with the processes set forth in section 24 of P.L.2020, c.156 (C.34:1B-292), as determined by the agency [1]**[**, except that agency shall not sell tax credits for less than 85 percent of the tax credit amount, and the agency shall not sell more than $75 million in tax credits annually**]** . The agency shall be permitted to join or be added to any contracts that the New Jersey Economic Development Authority has utilized for its actions.

(3) The agency shall be limited to selling $75 million in tax credits annually and shall not sell tax credits for less than 85 percent of the tax credit amount[1].

b. (1) The proceeds from the sale of tax credits at each auction shall be reserved for use by the agency for the purposes of providing financial assistance to [1]**[**support the development of**]** create[1] middle-income workforce housing [1]**[**in the State, including but not limited to**]**[1], [1]which may include, but shall not be limited to, new construction or[1] the rehabilitation or construction of residential units within multiple dwellings [1]**[**located within areas with proximity to existing public transportation or job opportunities**]**[1].

(2) [1]**[**Subject to the requirements of this subsection, the agency may use some or all of the proceeds of the tax credit auctions as part of an existing program operated by the agency on or before the effective date of P.L.   , c.   (C.   ) (pending before the Legislature as this bill) or through the establishment of a new program to effectuate the provisions of P.L.   , c.   (C.   ) (pending before the Legislature as this bill)**]** The agency shall promulgate guidelines for a Middle-Income Workforce Housing Program within 90 days following the effective date of P.L.   , c.   (C.   ) (pending before the Legislature as this bill) to govern the application and award processes for qualified projects seeking funds deposited under P.L.   , c.   (C.   ) (pending before the Legislature as this bill). In addition to any other eligibility requirements that the agency deems appropriate, the project financing subsidy authorized under this section shall only be made available to projects in receipt of a Four-Percent Low Income Housing Tax Credit administered by the agency.

(3) The agency may utilize up to five percent of the proceeds to reimburse for administrative and operational costs, including contracts necessary to hold the auction[1].

5. (New section) A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill) shall enter into a contract with the agency that includes payment information and the commitments made by the purchaser in its auction bid. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill) shall pay by wire transfer the amount specified in its auction bid to the agency. Upon receipt thereof, the Executive Director of the agency shall notify the director to issue tax credits in the amount approved. Failure by the purchaser to pay the amount agreed upon on time shall disqualify the purchaser from purchasing the tax credits and the [1]**[**authority**]** agency[1] may reassign the right to purchase the credits to another bidder. Failure by the purchaser to adhere to the commitments made in its auction bid shall disqualify the purchaser from participating in future auctions and may result in the recapture of a portion of the tax credits.

6. (New section) a. A purchaser shall apply a credit awarded pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) against the purchaser's State tax liability due 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 for the current privilege period as of the date of the approval of the credits. A purchaser may carry forward an unused credit resulting from the limitations of subsection b. of this section, if necessary, for use in the seven privilege periods next following the privilege period for which the credit is awarded.

b. The director shall prescribe the order of priority of the application of the credits awarded under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other credits allowed by law. The amount of a credit applied under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) 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 of the purchaser 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).

7. (New section) a. A purchaser may apply to the agency and the director for a tax credit transfer certificate in lieu of the purchaser being allowed to apply any amount of the tax credit against the purchaser's State tax liability. A tax credit may be sold or assigned, in full or in part, to another person that may have 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 purchaser shall include a statement waiving the purchaser's right to claim the credit that the purchaser has elected to sell or assign.

b. The purchaser shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the purchaser 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 purchaser by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 6 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 buyer 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. 10 percent of the consideration received by a purchaser from the sale or assignment of a tax credit transfer certificate pursuant to this section shall be remitted to the director and deposited in the General Fund of the State.

e. The agency shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the agency 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;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.

[1]⟦8. (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 Executive Director of the agency, in consultation with the Chief Executive Officer of the New Jersey Economic Development Authority, may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the Executive Director of the agency deems necessary to implement the provisions of sections 3 through 6 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 Executive Director of the agency 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.).⟧[1]

[1]⟦9.⟧ 8.[1] This act shall take effect immediately.

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, Nos. 4071 and 3155

STATE OF NEW JERSEY

221st LEGISLATURE

ADOPTED JUNE 26, 2025

Sponsored by:
Senator M. TERESA RUIZ
District 29 (Essex and Hudson)
Senator NICHOLAS P. SCUTARI
District 22 (Somerset and Union)
Senator TROY SINGLETON
District 7 (Burlington)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

Co-Sponsored by:
Senators McKnight and Wimberly

SYNOPSIS

Authorizes HMFA to use certain tax credits; directs HMFA to conduct tax credit auctions to provide financial assistance for certain housing purposes.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.

AN ACT concerning the use of tax credits for certain housing programs, amending P.L.2020, c.156, and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

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

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

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

(2) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director.

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

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276);

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.

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

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

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

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

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

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

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

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

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

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

(12) section 2 of P.L.2018, c.56 (C.54A:4-12b); **[**and**]**

(13) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.)<u>; and</u>

<u>(14) sections 3 through 7 of P.L. , c. (C. through) (pending before the Legislature as this bill)</u>.

(cf: P.L.2025, c.2, s.9)

2. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); **[**and**]** the "Next New Jersey Program Act," P.L.2024, c.49 (**[**C.34:1B-362 et seq.**]** <u>C.34:1B-394 et al.); and P.L. , c. (C.) (pending</u>

before the Legislature as this bill) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), [and] the "Next New Jersey Program Act," P.L.2024, c.49 ([C.34:1B-362 et seq.] C.34:1B-394 et al.), and P.L. , c. (C.) (pending before the Legislature as this bill), shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) (i) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $100,000,000;

(ii) from the tax credits made available to the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the sum of $200,000,000 in tax credits shall be allocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill). All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L. , c. (C) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (⟦C.34:1B-362 et seq.⟧ C.34:1B-394 et al.), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b);

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State; ⟦and⟧

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 ⟦(C.34:1B-362 et seq.)⟧ <u>(C.34:1B-394 et al.); and</u>

(l) once the tax credits allocated for competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill) pursuant to subsubparagraph (ii) of subparagraph (b) of this paragraph are exhausted, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, the sum of $300,000,000 shall be made available to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L. , c. (C.) (pending before the Legislature as this bill). The amount made available pursuant to this subparagraph shall be allocated in annual instalments, each of which is not to exceed the cap set forth in paragraph (3) of subsection a. of section 4 of P.L. , c. (pending before the Legislature as this bill), as needed to conduct auctions pursuant to that section. All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L. , c. (C) (pending before the Legislature as this bill). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners, $250,000,000 for New Jersey film-lease production companies, and $300,000,000 for taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New

Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.
(cf: P.L.2024, c.49, s.10)

3. (New section) As used in sections 4 through 7 of P.L. , c. (C. through) (pending before the Legislature as this bill):

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

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

"Distressed older suburban municipality" means a municipality that is not designated by the agency as a targeted urban municipality, and that, in the determination of the agency, meets at least four of the following criteria:

a. has experienced a sustained drop in income levels compared to the region;

b. has an elevated percentage of residents living below 100 percent of the poverty line, adjusted for family size, established and adjusted under section 673 of the federal "Community Services Block Grant Act," (42 U.S.C. s.9902);

c. experiences high rates of unemployment or low labor force participation rates;

d. has a large share of homes built before 1960 and elevated rates of residential property vacancy and abandonment;

e. experiences stagnant or declining property values;

f. experiences declining commercial ratables; and

g. experiences declining municipal capacity as a consequence of budget stress.

″Four-Percent Low Income Housing Tax Credit″ means the four-percent allocation from the federal Low Income Housing Tax Credit program established pursuant to section 42 of the federal Internal Revenue Code (26 U.S.C. s.42).

"Low- and moderate-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 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.

"Middle-income 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 80 percent or more, but not exceeding 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

"Targeted urban municipality" means the same as that term is defined by the agency pursuant to N.J.A.C.5:80-33.2, or successor regulation.

4. (New section) a. (1) Beginning on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the agency shall sell up to $500,000,000 in tax credits over the course of no more than six years.

(2) The competitive auctions shall be conducted in a manner consistent with the processes set forth in section 24 of P.L.2020, c.156 (C.34:1B-292), as determined by the agency. The agency shall be permitted to join or be added to any contracts that the New Jersey Economic Development Authority has utilized for its auctions, although auctions held for the purposes of administering P.L. , c. (C.) (pending before the Legislature as this bill) shall not be counted towards the limitation imposed pursuant to subsection d. of section 24 of P.L.2020, c.156 (C.34:1B-292) and the requirement on purchasers under paragraph (3) of subsection b. of section 24 of P.L.2020, c.156 (C.34:1B-292) shall not apply. The agency shall deposit funds received at an auction pursuant to this subsection minus those reserved for administrative or operational costs into a nonlapsing account established and maintained by the agency for the purposes of administering P.L. , c. (C.) (pending before the Legislature as this bill).

(3) The agency shall be limited to selling $100,000,000 in tax credits annually and shall not sell tax credits for less than 80 percent of the tax credit amount.

b. (1) (a) Fifty percent of the proceeds deposited into the nonlapsing account created pursuant to paragraph (2) of subsection a. of this section shall be reserved for use by the agency for the purposes of providing financial assistance to create middle-income workforce housing. Fifty percent of the proceeds deposited into the nonlapsing account created pursuant to paragraph (2) of subsection a. of this section shall be reserved for use by the agency for the purposes of providing financial assistance to create low- and moderate-income housing toward the fulfillment of a municipality’s current or prior round fair share affordable housing obligation pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

(b) The 50 percent set asides established by subparagraph (a) of this paragraph for monies deposited into the nonlapsing account in each program funding year, pursuant to paragraph (2) of subsection a. of this section, shall remain in effect until December 31 of that year. If any funds deposited into the nonlapsing account during that program funding year remain unreserved for qualified projects subject to the set asides after December 31 of the program funding year when the monies are deposited, the set aside shall no longer apply to those funds, which may then be used for any qualified project under sections 4 through 7 of P.L. , c. (C. through) (pending before the Legislature as this bill). The initial program funding year shall begin on July 1, 2025, and shall conclude on December 31, 2025. Each subsequent program funding year shall conform to the calendar year.

(c) In the distribution of proceeds pursuant to this section for the purposes of providing financial assistance to create low- and moderate-income housing toward the fulfillment of a municipality's current or prior round fair share affordable housing obligation pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), the agency shall prioritize an application for development that is in a distressed older suburban municipality, as defined in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

(d) Housing created pursuant to this section may include, but shall not be limited to, new construction or the rehabilitation or construction of residential units within multiple dwellings.

(e) Following the enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the agency shall promptly and actively promote the middle-income workforce housing component of the housing program established pursuant to this section to ensure that a substantial range of potential applicants to obtain funding to provide middle-income workforce housing are made aware of the program. The promotion efforts of the agency shall include, but shall not be limited to: the provision of information sessions on the program and application process; and the provision of technical assistance to applicants in completing the application process.

(2) The agency shall promulgate guidelines for a housing program to fulfill the purposes of this section within 90 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) to govern the application and award processes for qualified projects seeking funds deposited under P.L. , c. (C.) (pending before the Legislature as this bill). In addition to any other eligibility requirements that the agency deems appropriate, the project financing subsidy authorized under this section shall only be made available to projects in receipt

of a Four-Percent Low Income Housing Tax Credit administered by the agency.

(3) The agency may utilize up to five percent of the proceeds to reimburse for administrative and operational costs, including contracts necessary to hold the auction.

5. (New section) A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall enter into a contract with the agency that includes payment information and the commitments made by the purchaser in its auction bid. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall pay by wire transfer the amount specified in its auction bid to the agency. Upon receipt thereof, the Executive Director of the agency shall notify the director to issue tax credits in the amount approved. Failure by the purchaser to pay the amount agreed upon on time shall disqualify the purchaser from purchasing the tax credits and the agency may reassign the right to purchase the credits to another bidder. Failure by the purchaser to adhere to the commitments made in its auction bid shall disqualify the purchaser from participating in future auctions and may result in the recapture of a portion of the tax credits.

6. (New section) a. A purchaser shall apply a credit awarded pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) against the purchaser's State tax liability due 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 for the current privilege period as of the date of the approval of the credits. A purchaser may carry forward an unused credit resulting from the limitations of subsection b. of this section, if necessary, for use in the seven privilege periods next following the privilege period for which the credit is awarded.

b. The director shall prescribe the order of priority of the application of the credits awarded under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other credits allowed by law. The amount of a credit applied under section 4 of P.L. , c. (C.) (pending before the the Legislature as this bill) 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 of the purchaser 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).

7. (New section) a. A purchaser may apply to the agency and the director for a tax credit transfer certificate in lieu of the purchaser being allowed to apply any amount of the tax credit against the purchaser's State tax liability. A tax credit may be sold or assigned, in full or in part, to another person that may have 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 purchaser shall include a statement waiving the purchaser's right to claim the credit that the purchaser has elected to sell or assign.

b. The purchaser shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the purchaser of less than 80 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 purchaser by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 6 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 buyer 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. Ten percent of the consideration received by a purchaser from the sale or assignment of a tax credit transfer certificate pursuant to this section shall be remitted to the director and deposited in the General Fund of the State.

e. The agency shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the agency 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;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.

8. This act shall take effect immediately.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 3155

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 2024

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 3155.

As amended, the bill permits the New Jersey Housing and Mortgage Finance Agency (HMFA) to award project financing tax credits to the developers of certain qualified projects that: (1) have received a four-percent federal low income housing tax credit (LIHTC) when the total demand for nine-percent LIHTC exceeds the total value available for distribution; and (2) have a project financing gap demonstrated by the developer at the time of application. The total tax credit award may not exceed the lesser of: (1) the amount necessary to ensure that the qualified project receives a total subsidy in an amount equivalent to the receipt of a nine-percent LIHTC for the qualified project; or (2) the amount of the project financing gap for a qualified project.

The bill provides that the HMFA may award some or all of these tax credits as part of an existing program operated by the HMFA or through the establishment of a new program to effectuate the provisions of this bill. The bill also provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in the bill.

Under the bill, the uncommitted balance of tax credits otherwise authorized to be awarded by the New Jersey Economic Development Authority (EDA) under the Community-Anchored Development Program would be annually reallocated to the HMFA to support the purposes set forth in this bill. Under current law, the EDA may annually award up to $200 million in tax credits under the Community-Anchored Development Program, including up to $130 million in the northern counties of the State and up to $70 million in the southern counties of the State, beginning on January 1, 2026 through the conclusion of the nine-year authorization period set forth in the “Economic Recovery Act of 2020.” If during any of these years the EDA awards less than the annual limitation of tax credits for either geographic region, the bill provides that the uncommitted balance of tax credits would be annually reallocated to the HMFA to support the purposes of this bill.

As amended and reported by the committee, Senate Bill No. 3155 is identical to Assembly Bill No. 3128 (1R), which was also reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments clarify the manner in which the uncommitted balance of tax credits would be reallocated from the Community-Anchored Development Program to the HMFA in light of the recent enactment of P.L.2023, c.197, which provides that tax credits may not be awarded under the Community-Anchored Development Program until January 1, 2026. The committee amendments provide that beginning after January 1, 2026, if during any year of operation of the Community-Anchored Development Program, the EDA awards less than the annual limitation of tax credits for the northern counties of the State or the southern counties of the State, respectively, then the uncommitted balance of tax credits would be reallocated to the HMFA to support the purposes of this bill.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 4071

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 2025

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments, Senate Bill No. 4071.

As amended, this bill reallocates $400 million in tax credits, which are currently authorized for the Community-Anchored Development Program and Cultural Arts Incentives Program, to the New Jersey Housing and Mortgage Finance Agency (HMFA) for sale through a competitive tax credit auction. The proceeds from the sale of tax credits at auction are to be used by the HMFA to support the development of middle-income workforce housing in the State.

Under current law, the "New Jersey Economic Recovery Act of 2020" (recovery act) has authorized $1.2 billion in tax credits over a nine-year period for the Community-Anchored Development Program. Following P.L.2023, c.197, a portion of the tax credits allocated for the Community-Anchored Development Program is allowed to be used to support tax credit awards for projects through the Cultural Arts Incentives Program. However, tax credits are not authorized to be awarded under the Community-Anchored Development Program until beginning on January 1, 2026, and no projects have been awarded tax credits under the Cultural Arts Incentives Program as of February 2025.

Under this bill, $400 million in tax credits will be transferred from these two programs to the HMFA in order to create middle-income workforce housing programs administered by the HMFA. The bill specifies that the tax credits reallocated to the HMFA are not subject to any requirements or conditions originally imposed on the tax credits under the recovery act.

Specifically, this bill requires the HMFA to sell up to $400 million in tax credits through a competitive auction process. Under the bill, these auctions are to be conducted in a manner consistent with the auctions held by the New Jersey Economic Development Authority (EDA) under the New Jersey Innovation Evergreen Program, as determined by the HMFA. The bill provides that the tax credits may not be sold for a consideration less than 85 percent of the tax credit amount, and no more than $75 million in tax credits may be sold at auction annually. This bill also permits the Director of the Division of Taxation in the Department of the Treasury to purchase unused tax credits awarded under the provisions of this bill. The bill provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in this bill. Additionally, the bill requires that the HMFA be permitted to join or be added to any contracts the EDA used for its actions.

Under the bill, the HMFA is required to use the proceeds of tax credit auctions to provide financial assistance to create middle-income workforce housing, which may include new construction or the rehabilitation or construction of residential units within multiple dwellings. The bill defines "middle-income workforce housing" to mean housing that is deed-restricted for occupancy by households with a gross household income of 80 percent or more, but not exceeding 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located. The bill requires the HMFA to promulgate guidelines for a Middle-Income Workforce Housing Program to govern the application and award processes for projects seeking funds under the provisions of this bill.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) specify that tax credits reallocated to the HMFA under this bill are not to be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," as amended or supplemented;

(2) specify that proceeds from the sale of tax credits at auction by the HMFA are reserved for the purposes of providing financial assistance to create middle-income workforce housing, which includes new construction and rehabilitation of residential units within multiple dwellings;

(3) specify that the project financing subsidy for the creation of middle-income workforce housing authorized under the bill is only available to projects in receipt of a four-percent allocation from the federal Low Income Housing Tax Credit Program administered by the HMFA;

(4) permit the HMFA to utilize up to five percent of the proceeds from a tax credit auction for administrative and operational costs, including contracts necessary to hold the auction, which contracts the HMFA may enter on their own or join or be added to alongside the EDA;

(5) require the HMFA to promulgate guidelines for a Middle-Income Workforce Housing Program, within 90 days following the effective date of the bill, to govern the application and award processes for qualified projects seeking funds under the provisions of this bill;

(6) define "Four-Percent Low Income Housing Tax Credit" to mean a four-percent tax credit provided through the federal Low

Income Housing Tax Credit Program established pursuant to section 42 of the federal Internal Revenue Code (26 U.S.C. s.42); and

(7) make technical changes, including an update to an underlying statute in light of a recent enactment of law.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 4071 and 3155

STATE OF NEW JERSEY

DATED: JUNE 26, 2025

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 4071 and 3155.

This substitute bill reallocates $500 million in tax credits to the New Jersey Housing and Mortgage Finance Agency (HMFA) for sale through a competitive tax credit auction. Of this tax credit reallocation, $200 million are to be reallocated from the "Brownfields Redevelopment Incentive Program Act." Once this initial allocation is exhausted, $300 million are to be made available from the "New Jersey Aspire Program Act" and "Emerge Program Act."

Under this bill, $500 million in tax credits are to be transferred from these programs to the HMFA to support the development of certain housing development projects in the State. Specifically, the proceeds would support the creation of middle-income workforce housing programs administered by the HMFA and low- and moderate-income housing. The bill specifies that the tax credits reallocated to the HMFA are not subject to any requirements or conditions originally imposed on the tax credits under the "New Jersey Economic Recovery Act of 2020."

Specifically, this bill requires the HMFA to sell up to $500 million in tax credits through a competitive auction process. Under the bill, these auctions are to be conducted in a manner consistent with the auctions held by the New Jersey Economic Development Authority (EDA) under the New Jersey Innovation Evergreen Program, as determined by the HMFA. The bill provides that the tax credits may not be sold for a consideration less than 80 percent of the tax credit amount, and no more than $100 million in tax credits may be sold at auction annually. The bill provides that certain of these tax credits may be sold or transferred by the recipient, subject to certain restrictions specified in this bill. Additionally, the bill requires that the HMFA be permitted to join or be added to any contracts the EDA has used for its auctions, and allows HMFA certain exceptions to auction processes and purchaser requirements.

The bill requires HMFA to use 50 percent of the proceeds of tax credit auctions to provide financial assistance to create middle-income workforce housing, which may include new construction or the rehabilitation or construction of residential units within multiple dwellings. The bill defines "middle-income workforce housing" to mean 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 80 percent or more, but not exceeding 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located. The bill also requires 50 percent of tax credit proceeds to be used for the creation of low- and moderate-income housing toward the fulfillment of a municipality's current or prior round fair share affordable housing obligation pursuant to the "Fair Housing Act," (FHA) P.L.1985, c.222 (C.52:27D-301 et al.).

The bill provides that the 50 percent set aside requirements, for middle-income workforce housing and low- and moderate-income housing, are to remain in effect until the end of the calendar year, beginning with 2025, during which the tax credit monies have been made available and deposited with HMFA for the purposes of the bill. If any funds deposited with HMFA remain unreserved for qualified projects subject to the set asides after December 31 of the year when the monies are deposited, the set aside is to no longer apply to those funds, which may then be used for any qualified project, either middle-income workforce housing or low- and moderate-income housing, as determined by HMFA.

The bill requires that, in the distribution of proceeds to create low- and moderate-income housing, an application for development is to be prioritized if located in a "distressed older suburban municipality," as defined in the bill.

The bill directs HMFA to promptly and actively promote the middle-income workforce housing component of the bill to ensure that a substantial range of potential applicants are made aware of the program.

The bill requires the HMFA to promulgate guidelines for a housing program to govern the application and award processes for projects seeking funds under the provisions of this bill.

As reported by the committee, the Senate Committee Substitute for Senate Bill Nos. 4071 and 3155 is identical to Assembly Bill No. 3128 (1R), as was amended and reported by the committee on this date.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 4071

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JUNE 30, 2025

SUMMARY

Synopsis:	Authorizes HMFA to use certain tax credits; directs HMFA to conduct tax credit auctions to provide financial assistance for middle-income workforce housing purposes.
Type of Impact:	Net State revenue decrease.
Agencies Affected:	Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	
Net State Revenue Loss	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill will result in an annual State revenue decrease of up to $75.0 million through the issuance of tax credits for middle-income workforce housing development.

- The State revenue loss will be partially offset by auction proceeds of at least 85 percent of the face value of tax credits sold annually and transfer fees equal to 10 percent of consideration received from secondary sales; the revenue decrease occurs later when credits are applied against taxpayer liabilities.

BILL DESCRIPTION

The bill authorizes the Housing and Mortgage Finance Agency to use certain tax credits allocated from existing economic development programs and directs the agency to conduct competitive tax credit auctions to provide financial assistance for middle-income workforce housing purposes. The bill reallocates $400 million in tax credits from the Community-Anchored Development Act to the agency for this purpose.

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– OLS –

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Under the bill, the agency may sell up to $75 million in tax credits annually through competitive auctions at a minimum price of 85 percent of the tax credit face value. The proceeds must be used to provide financial assistance for middle-income workforce housing developments, defined as housing for households earning between 80 percent and 120 percent of area median income. Projects must also receive Four-Percent Low Income Housing Tax Credits to be eligible for funding.

The bill allows tax credit purchasers to transfer their credits to other taxpayers, with a minimum resale price of 85 percent of credit value and a requirement that ten percent of transfer consideration be remitted to the State General Fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will result in an annual State revenue decrease of up to $75.0 million through the issuance of tax credits for middle-income workforce housing development. The State revenue loss will be partially offset by auction proceeds of at least 85 percent of the face value of tax credits sold annually and transfer fees equal to 10 percent of consideration received from secondary sales; the revenue decrease occurs later when credits are applied against taxpayer liabilities.

The primary fiscal impact results from the annual authorization to sell up to $75.0 million in tax credits. When these credits are ultimately applied against taxpayer liabilities, the State will experience a corresponding revenue decrease of up to $75 million annually. Based on the bill's limitation structure, the program could operate for approximately five to six years before reaching the total $400.0 million authorization.

The State will receive immediate revenues through auction proceeds and transfer fees. The Housing and Mortgage Finance Agency must sell tax credits at a minimum of 85 percent of face value, generating auction proceeds of at least 85 percent of the annual tax credits sold when the program is fully utilized. These proceeds are deposited with the agency and dedicated to middle-income workforce housing development. Additionally, the bill requires ten percent of consideration received from secondary tax credit transfers to be remitted to the State General Fund. The OLS cannot quantify this revenue source as it depends on the frequency and value of secondary market transactions.

The OLS expects the annual $75.0 million limitation to be fully utilized based on demonstrated demand for housing tax credit programs in New Jersey. The State currently operates a separate $50 million workforce housing program that addresses similar housing needs, and demand for existing housing tax credit programs consistently exceeds available supply. The 85 percent minimum purchase price and seven-year carryforward period make these credits attractive to investors. The program specifically targets middle-income workforce housing for households earning between 80 and 120 percent of area median income.

Section: *Revenue, Finance, and Appropriations*

Analyst: *Patrick Walsh*
Associate Fiscal Analyst

Approved: *Thomas Koenig*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, Nos. 4071 and 3155

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 3, 2025

SUMMARY

Synopsis:	Authorizes HMFA to use certain tax credits; directs HMFA to conduct tax credit auctions to provide financial assistance for certain housing purposes.
Type of Impact:	Multi-year State revenue decrease and State expenditure increase.
Agencies Affected:	New Jersey Housing and Mortgage Finance Agency; Economic Development Authority.

Office of Legislative Services Estimate

Annual Fiscal Impact	
Multi-Year State Revenue Decrease	Indeterminate
Multi-Year State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill would result in indeterminate multi-year State revenue decreases associated with the establishment of a new tax credit auction program administered by the Housing and Mortgage Finance Agency (HMFA) and the reallocation of existing tax credits from the Brownfields Redevelopment Incentive Program. This impact is expected to begin in CY 2025 and continue through the conclusion of the nine-year authorization period established under the Economic Recovery Act of 2020.

- The requirement that auction proceeds be used specifically for housing development programs would increase housing program expenditures by the HMFA and would also have ongoing administrative costs to the agency, though the bill permits the HMFA to use up to five percent of proceeds for administrative expenses.

BILL DESCRIPTION

The bill authorizes the HMFA to conduct competitive tax credit auctions and use the proceeds to provide financial assistance for housing development. The bill reallocates $200.0 million in tax credits from the Brownfields Redevelopment Incentive Program to the HMFA for auction

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purposes, with the proceeds dedicated to supporting middle-income workforce housing and low- and moderate-income housing projects that have received four percent federal Low Income Housing Tax Credits.

The bill establishes that the HMFA may sell up to $500.0 million in tax credits over no more than six years through competitive auctions, with annual sales limited to $100.0 million and a minimum sale price of 80 percent of the tax credit value. The proceeds are to be divided equally between middle-income workforce housing development and low- and moderate-income housing that fulfills municipal fair share obligations under the Fair Housing Act, with priority given to distressed older suburban municipalities for the affordable housing component.

Additionally, the bill provides that once the initial $200.0 million allocation is exhausted, an additional $300.0 million in tax credits may be reallocated from the Aspire and Emerge Programs to continue the auction program. The bill also establishes specific requirements for tax credit purchasers, including restrictions on resale of credits, mandatory remittance of ten percent of any transfer proceeds to the State General Fund, and public disclosure requirements for all tax credit transfers. The bill requires the HMFA to actively promote the middle-income workforce housing component and establishes that eligible projects must have received four-percent Low Income Housing Tax Credits from the agency.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill would result in indeterminate multi-year State revenue decreases associated with the establishment of a new tax credit auction program and the modification of existing tax credit allocation mechanisms. This impact is expected for a period of six years beginning in CY 2025.

The bill reallocates $200.0 million in tax credits originally designated for the Brownfields Redevelopment Incentive Program to the HMFA for competitive auctions. Under current law, these tax credits would be awarded directly to qualifying brownfields projects, providing dollar-for-dollar reductions in State tax liability. Under the bill, these same credits would be sold through auctions at no less than 80 percent of face value, with proceeds used for housing programs rather than direct tax relief.

While the auction mechanism may generate some revenue for the State through the 10 percent transfer fee imposed on subsequent sales of tax credit certificates, the overall impact on State revenues remains indeterminate. The auction process introduces market dynamics that could result in tax credits being sold at varying prices between 80 and 100 percent of face value, making the precise revenue impact difficult to predict.

The bill also authorizes the reallocation of an additional $300.0 million in tax credits from the Aspire and Emerge Programs once the initial Brownfields allocation is exhausted. This reallocation would similarly convert direct tax credits into auction-based credits, potentially affecting the timing and magnitude of State revenue losses associated with these programs.

The requirement that auction proceeds be used specifically for housing development programs would increase housing program expenditures by the HMFA and would also have ongoing administrative costs to the agency, though the bill permits the HMFA to use up to five percent of proceeds for administrative expenses.

The OLS notes that the actual fiscal impact will depend on several factors, including the demand for tax credits in the auction market, the prices achieved in competitive bidding, the pace at which auctions are conducted, and the effectiveness of the resulting housing programs in generating economic activity that might offset some revenue losses through increased economic development and property tax generation. The 10 percent transfer fee on secondary sales of tax credit certificates may provide some offsetting revenue to the State General Fund, though the magnitude of such revenue will depend on market activity and transfer patterns.

Section:	*Revenue, Finance, and Appropriations*
Analyst:	*Patrick Walsh* *Associate Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

Posted on - 07/22/2025

TRENTON – Today, Governor Murphy signed the following bills into law:

S2167/A1406 (Ruiz, Vitale/Haider, Swain) – Requires public and certain nonpublic schools to comply with breakfast and lunch standards adopted by USDA

S3052/A4878 (Johnson, Space/Park, Tucker, Speight) – Concerns grade options at public institutions of higher education for service member and dependents unable to complete course due to military obligation

S3711/A5153 (McKeon, Zwicker/Haider, Reynolds-Jackson, Spearman) – Makes annual allocation of $500,000 from Clean Communities Program Fund for public outreach concerning single-use plastics reduction program permanent.

SCS for S3982/A4592 (Ruiz/Reynolds-Jackson/Carter, Morales) – Requires certain information be provided to parent at least two business days prior to annual Individualized Education Program (IEP) team meeting; establishes IEP Improvement Working Group in DOE.

S4263/A5408 (Vitale, Scutari/Carter, Sumter. Speight) – Revises certain provisions concerning, and establishes certain education and data reporting requirements related to, involuntary commitment.

S4426/A5622 (Burzichelli, Singer/Schnall, Peterpaul, Kane) – Appropriates funds to DEP for environmental infrastructure projects for FY2026

S4439/A5729 (Lagana, Cryan/Swain) – Establishes protections for student-athletes and certain institutions of higher education concerning name, image, or likeness compensation; repeals "New Jersey Fair Play Act."

A3128/SCS for S4071/S3155 (Coughlin, Wimberly, Pintor Marin/Ruiz, Scutari, Singleton, Greenstein, Turner) – Authorizes HMFA to use certain tax credits; directs HMFA to conduct tax credit auctions to provide financial assistance for certain housing purposes

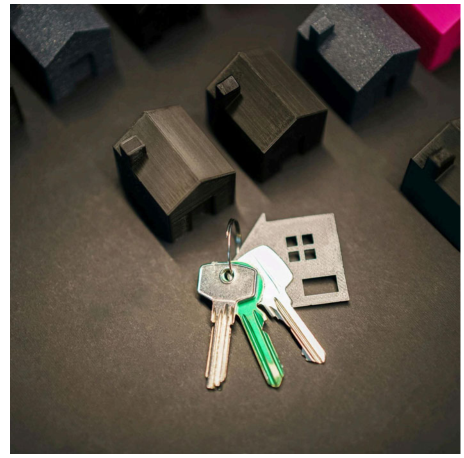
A4897/S3769 (Carter, Atkins, Reynolds-Jackson/Cryan, Amato) – Revises law requiring certain student identification cards to contain telephone number for suicide prevention hotline

A5170/S4027 (Pintor Marin, Speight/Cruz-Perez, Pou) – Requires State to purchase certain unused tax credits issued under New Jersey Economic Recovery Act of 2020

A5546/S4388 (Verrelli, Reynolds-Jackson/Turner) – Concerns financial powers and responsibilities of Capital City Redevelopment Corporation.

Posted on: July 22, 2025

Majority Leader Ruiz's Bill Stimulating Low and Middle-Income Housing Development Signed into Law



TRENTON – Today, Governor Phil Murphy signed S-4071 into law, legislation that addresses the housing shortage and expands opportunities for affordable living across New Jersey. The bill, sponsored by Majority Leader M. Teresa Ruiz, Senate President Nick Scutari, Senator Troy Singleton, Senator Linda Greenstein, and Senator Shirley K. Turner, provides $500 million in tax credits to the New Jersey Mortgage Finance Agency (HMFA) to sell at auction and then utilize the proceeds to support low- and moderate-income housing development in addition to middle-income workforce housing development in the state.

"This law, for the first time, signifies New Jersey's long-term commitment to middle-income workforce housing, which will give families more room in their budgets and allow them to continue living in their communities for years to come," said Majority Leader Ruiz.

The state currently faces a shortage of nearly 290,000 affordable homes, according to the National Low Income Housing Coalition. Beyond this supply gap, many middle-income families who don't qualify for housing assistance still face challenges securing reasonably priced homes near their jobs and schools.

"The people who keep our communities running—teachers, nurses, construction workers, police officers, and countless others—are working hard to make a living, yet still struggling under the weight of housing costs. To truly address New Jersey's housing crisis and ensure every family has a place to call home, we need a comprehensive approach—one that expands both designated affordable housing and increases options for middle-income families who don't qualify for assistance but are still priced out," said Majority Leader Ruiz. "This bill will help towns fulfill their affordable housing obligations and will stimulate middle-income housing development to close this gap in the market."

The bill shifts $500 million in tax credits currently authorized for the "Brownfields Redevelopment Incentives Program Act," the "New Jersey Aspire Program Act," and the "Emerge Program Act," to the New Jersey Housing and Mortgage Finance Agency (HMFA), which will sell them through a competitive auction process over the course of no more than six years. The HMFA is limited to selling $100 million in tax credits annually and cannot sell tax credits for less than 80% of the tax credit amount.

The bill defines “low- and moderate-income housing” as affordable housing for households earning less than 80% of the area's median income. “Middle-income workforce housing” is defined as affordable housing for households earning between 80% and 120% of the area's median income, based on the federal Department of Housing and Urban Development or other recognized standards. Half of the auction proceeds fund middle-income workforce housing through the HMFA, while the other half supports low- and moderate-income housing to help municipalities meet their affordable housing obligations under the Fair Housing Act.

Under the bill, housing includes, but is not limited to, new construction or the rehabilitation or construction of residential units with multiple dwellings. The HMFA is required to actively promote middle-income workforce housing to ensure a substantial range of potential applicants for funding are made aware of the program.