

34:1B-335.1 & 34:1B-335.2 et al
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2023 **CHAPTER:** 98

NJSA: 34:1B-335.1 & 34:1B-335.2 et al Revises various provisions of "New Jersey Economic Recovery Act of 2020," including revisions to New Jersey Aspire Program.

BILL NO: S4023 (Substituted for A5644 (1R))

SPONSOR(S) Ruiz, M. Teresa and others

DATE INTRODUCED: 6/26/2023

COMMITTEE: **ASSEMBLY:** --

SENATE: Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 06/30/2023

SENATE: 06/20/2023

DATE OF APPROVAL: 7/6/2023

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (S4023 Sca (1R) enacted) Yes

S4023

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

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(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

A5644 (1R)

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

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

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FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

Brent Johnson - For Times of Trenton, 'Gov. hails trio of new laws as 'monumental' for N.J. economy
Controversial wind tax credits among measures Murphy signed, despite critics' concerns.', *Times, The* (online), 8
Jul 2023 001

Matthew Fazelpoor, 'Murphy signs trio of bills aimed at economic development', *NJBIZ* (online), 7 Jul 2023

CL/JA

P.L. 2023, CHAPTER 98, *approved July 6, 2023*
Senate, No. 4023 (*First Reprint*)

1 **AN ACT** concerning certain economic development programs and
2 amending and supplementing P.L.2020, c.156.

3

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

6

7 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
8 read as follows:

9 55. As used in sections 54 through 67 of P.L.2020, c.156
10 (C.34:1B-322 through C.34:1B-335):

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

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

16 "Aviation district" means all areas within the boundaries of the
17 Atlantic City International Airport, established pursuant to section
18 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
19 Administration William J. Hughes Technical Center and the area
20 within a one-mile radius of the outermost boundary of the Atlantic
21 City International Airport and the Federal Aviation Administration
22 William J. Hughes Technical Center.

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

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

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

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:

¹Senate SBA committee amendments adopted June 27, 2023.

1 "Collaborative workspace" means coworking, accelerator,
2 incubator, or other shared working environments that promote
3 collaboration, interaction, socialization, and coordination among
4 tenants through the clustering of multiple businesses or individuals.
5 For this purpose, the collaborative workspace shall be the greater
6 of: 2,500 of dedicated square feet or 10 percent of the total property
7 on which the redevelopment project is situated. The collaborative
8 workspace shall include a community manager, be focused on
9 collaboration among the community members, and include
10 regularly scheduled education events for the community members.
11 The collaborative workspace shall also include a physical open
12 space that supports the engagement of its community members.

13 "Commercial project" means a redevelopment project, which is
14 predominantly commercial and, if located in a government-
15 restricted municipality, contains [100,000] 25,000 or more square
16 feet, or if located in any other municipality, contains 50,000 or
17 more square feet of office and retail space, industrial space, or film
18 studios, professional stages, television studios, recording studios,
19 screening rooms, or other infrastructure for film production, [for
20 purchase or lease] and may include a parking component. The term
21 "commercial project" includes a redevelopment project comprised
22 solely of a health care or health services center, which contains not
23 less than 10,000 square feet devoted to health care or health
24 services, and which may include a parking component.

25 "Developer" means a person who enters or proposes to enter into
26 an incentive award agreement pursuant to the provisions of section
27 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
28 a lender that completes a redevelopment project, operates a
29 redevelopment project, or completes and operates a redevelopment
30 project.

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

33 "Distressed municipality" means a municipality that is qualified
34 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
35 municipality under the supervision of the Local Finance Board
36 pursuant to the provisions of the "Local Government Supervision
37 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
38 identified by the Director of the Division of Local Government
39 Services in the Department of Community Affairs to be facing
40 serious fiscal distress, a SDA municipality, or a municipality in
41 which a major rail station is located.

42 "Economic development incentive" means a financial incentive,
43 awarded by the authority, or agreed to between the authority and a
44 business or person, for the purpose of stimulating economic
45 development or redevelopment in New Jersey, including, but not
46 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
47 credit, or other tax expenditure.

1 "Eligibility period" means the period not to exceed 15 years for a
2 commercial or mixed-use project or the period not to exceed 10
3 years for a residential project specified in an incentive award
4 agreement during which a developer may claim a tax credit under
5 the program, as such period shall be determined by the authority
6 pursuant to subsection b. of section 60 of P.L.2020, c.156 (C.34:1B-
7 328).

8 "Enhanced area" means (1) a municipality that contains an urban
9 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
10 208); (2) the five municipalities with the highest poverty rates
11 according to the 2017 Municipal Revitalization Index; and (3) the
12 three municipalities with the highest percentage of SNAP recipients
13 according to the 2017 Municipal Revitalization Index.

14 "Environmental remediation costs" means any costs incurred by
15 a developer in the completion of any actions necessary to
16 investigate, clean up, or respond to a known, suspected, or
17 threatened discharge of contaminants, including, as necessary, the
18 preliminary assessment, site investigation, remedial investigation,
19 and remedial action, pursuant to sections 23 through 43 and section
20 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

21 "Food delivery source" means access to nutritious foods, such as
22 fresh fruits and vegetables, through grocery operators, including,
23 but not limited to a full-service supermarket or grocery store, and
24 other healthy food retailers of at least 16,000 square feet, including,
25 but not limited to, a prepared food establishment selling primarily
26 nutritious ready-to-serve meals.

27 "Food desert community" means a physically contiguous area in
28 the State in which residents have limited access to nutritious foods,
29 such as fresh fruits and vegetables, and that has been designated as
30 a food desert community pursuant to subsection b. of section 38 of
31 P.L.2020, c.156 (C.34:1B-306).

32 "Government-restricted municipality" means a municipality in
33 this State with a municipal revitalization index distress score of at
34 least 75, that met the criteria for designation as an urban aid
35 municipality in the 2019 State fiscal year, and that, on the effective
36 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
37 restrictions imposed pursuant to the "Municipal Stabilization and
38 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
39 restricted in its ability to levy property taxes on property in that
40 municipality as a result of the State of New Jersey owning or
41 controlling property representing at least 25 percent of the total land
42 area of the municipality or as a result of the federal government of
43 the United States owning or controlling at least 50 acres of the total
44 land area of the municipality, which is dedicated as a national
45 natural landmark.

46 "Health care or health services center" means an establishment
47 that consists of not less than 10,000 square feet devoted to health
48 care or health services, where patients are admitted for or seek

1 examination and treatment by one or more physicians, dentists,
2 psychologists, or other medical practitioners, and which is located
3 in a municipality ¹[that lacks adequate access to health care
4 services, as annually determined by the Commissioner of Health]
5 with a Municipal Revitalization Index distress score of at least 50, a
6 distressed municipality, or a qualified incentive tract¹.

7 "Hospitality establishment" means a hotel, motel, or any
8 business, however organized, that sells food, beverages, or both for
9 consumption by patrons on the premises.

10 "Incentive area" means an aviation district **[,]** ; a port district **[,**
11 **or]** ; an area designated pursuant to the "State Planning Act,"
12 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
13 (Metropolitan), Planning Area 2 (Suburban), or a Designated
14 Center, provided an area designated as Planning Area 2 (Suburban)
15 or a Designated Center shall be located within a one-half mile
16 radius of the mid-point, with bicycle and pedestrian connectivity, of
17 a New Jersey Transit Corporation, Port Authority Transit
18 Corporation, or Port Authority Trans-Hudson Corporation rail, bus,
19 or ferry station, including all light rail stations, or a high frequency
20 bus stop as certified by the New Jersey Transit Corporation;
21 ¹[and] ¹an area designated as a brownfield site pursuant to the
22 "Brownfield and Contaminated Site Remediation Act," sections 23
23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.)
24 ¹; and an area of not less than 100 acres for which a licensed site
25 remediation professional has certified environmental remediation
26 costs, as defined in this section and in accordance with the "Site
27 Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60
28 (C.58:10C-1 et seq.), in an amount not less than \$10,000,000¹,
29 provided that any portion of ¹[the brownfield site] ¹such area¹ is
30 located in an area that otherwise qualifies as an incentive area.

31 "Incentive award" means an award of tax credits to reimburse a
32 developer for all or a portion of the project financing gap of a
33 redevelopment project pursuant to the provisions of sections 54
34 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

35 "Incentive award agreement" means the contract executed
36 between a developer and the authority pursuant to section 60 of
37 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
38 conditions under which the developer may receive the incentive
39 awards authorized pursuant to the provisions of sections 54 through
40 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

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

1 "Individuals with special needs" means individuals with mental
2 illness, individuals with physical or developmental disabilities, and
3 individuals in other emerging special needs groups identified by the
4 authority, based on guidelines established for the administration of
5 the Special Needs Housing Trust Fund established pursuant to
6 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
7 consultation with other State agencies.

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

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

42 "Major cultural institution" means a public or nonprofit
43 institution, not including an institution of higher education, within
44 this State that engages in the cultural, intellectual, scientific,
45 environmental, educational, or artistic enrichment of the people of
46 this State, and which institution is designated by the board as a
47 major cultural institution.

1 "Major rail station" means a railroad station that is located within
2 a qualified incentive area and that provides to the public access to a
3 minimum of six rail passenger service lines operated by the New
4 Jersey Transit Corporation.

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

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

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

25 "Port district" means the portions of a qualified incentive area
26 that are located within:

27 a. the "Port of New York District" of the Port Authority of
28 New York and New Jersey, as defined in Article II of the Compact
29 Between the States of New York and New Jersey of 1921; or

30 b. a 15-mile radius of the outermost boundary of each marine
31 terminal facility established, acquired, constructed, rehabilitated, or
32 improved by the South Jersey Port District established pursuant to
33 "The South Jersey Port Corporation Act," P.L.1968, c.60
34 (C.12:11A-1 et seq.).

35 "Program" means the New Jersey Aspire Program established by
36 section 56 of P.L.2020, c.156 (C.34:1B-324).

37 "Project cost" means the costs incurred in connection with a
38 redevelopment project by a developer until the issuance of a
39 permanent certificate of occupancy, or until such other time
40 specified by the authority, for a specific investment or
41 improvement, including the costs relating to lands, except the cost
42 of acquiring such lands, buildings, improvements, real or personal
43 property, or any interest therein, including leases discounted to
44 present value, including lands under water, riparian rights, space
45 rights, and air rights acquired, owned, developed or redeveloped,
46 constructed, reconstructed, rehabilitated, or improved, any
47 environmental remediation costs, plus costs not directly related to
48 construction, including capitalized interest paid to third parties, of

1 an amount not to exceed 20 percent of the total costs and the cost of
2 infrastructure improvements, including ancillary infrastructure
3 projects. When 100 percent of the residential units constructed in a
4 residential project are reserved for occupancy by low- and
5 moderate-income households, the term “project cost” shall also
6 include the developer fees paid before acquiring permanent
7 financing, as well as the deferred developer fees approved pursuant
8 to the rules established by the agency. The fees associated with the
9 application or administration of a grant under sections 54 through
10 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall not
11 constitute a project cost.

12 "Project financing gap" means the part of the total project cost,
13 including reasonable and appropriate return on investment, that
14 remains to be financed after all other sources of capital have been
15 accounted for, including, but not limited to developer contributed
16 capital, which shall not be less than 20 percent of the total project
17 cost, and investor or financial entity capital or loans for which the
18 developer, after making all good faith efforts to raise additional
19 capital, certifies that additional capital cannot be raised from other
20 sources on a non-recourse basis; provided, however, that for a
21 redevelopment project located in a government-restricted
22 municipality, the developer contributed capital shall not be less than
23 10 percent of the total project cost. Developer contributed capital
24 may consist of cash, deferred development fees, costs for project
25 feasibility incurred within the 12 months prior to application,
26 property value less any mortgages when the developer owns the
27 project site, and any other investment by the developer in the
28 project deemed acceptable by the authority, as provided by
29 regulations promulgated by the authority. Property value shall be
30 valued at the lesser of: (i) the purchase price, provided the property
31 was purchased pursuant to an arm's length transaction within 12
32 months of application; or (ii) the value as determined by a current
33 appraisal.

34 "Project labor agreement" means a form of pre-hire collective
35 bargaining agreement covering terms and conditions of a specific
36 project that satisfies the requirements set forth in section 5 of
37 P.L.2002, c.44 (C.52:38-5).

38 "Qualified incentive tract" means (i) a population census tract
39 having a poverty rate of 20 percent or more; or (ii) a census tract in
40 which the median family income for the census tract does not
41 exceed 80 percent of the greater of the Statewide median family
42 income or the median family income of the metropolitan statistical
43 area in which the census tract is situated.

44 "Quality childcare facility" is a child care center licensed by the
45 Department of Children and Families or a registered family child
46 care home with the Department of Human Services, operating
47 continuously, which has not been subject to an enforcement action,

1 and which has and maintains a licensed capacity for children age 13
2 years or younger who attend for less than 24 hours a day.

3 "Reasonable and appropriate return on investment" means the
4 discount rate at which the present value of the future cash flows of
5 an investment equals the cost of the investment. In determining the
6 "reasonable and appropriate return on investment," an investment
7 shall not include any federal, State, or local tax credits. For a
8 residential project that utilizes federal low-income housing tax
9 credits awarded by the agency, the "reasonable and appropriate
10 return on investment" shall be based on the approval of deferred
11 developer fees pursuant to the rules established by the agency. In
12 the event that a residential project, which utilizes federal low-
13 income housing tax credits awarded by the agency, generates
14 returns on equity other than federal or local grants or proceeds from
15 the sale of federal or local tax credits, the "reasonable and
16 appropriate return on investment" shall be based on both the
17 discount rate at which the present value of the future cash flows of
18 an investment equal the cost of the investment for the entire project,
19 and when evaluating only the units financed with federal low-
20 income housing tax credits awarded by the agency, the approval of
21 deferred developer fees pursuant to the rules established by the
22 agency.

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

32 "Residential project" means a redevelopment project that is
33 predominantly residential, intended for multi-family residency, and
34 may include a parking component.

35 "SDA district" means an SDA district as defined in section 3 of
36 P.L.2000, c.72 (C.18A:7G-3).

37 "SDA municipality" means a municipality in which an SDA
38 district is situated.

39 "Technology startup company" means a for-profit business that
40 has been in operation fewer than seven years at the time that it
41 initially occupies or expands in a qualified business facility and is
42 developing or possesses a proprietary technology or business
43 method of a high technology or life science-related product,
44 process, or service, which proprietary technology or business
45 method the business intends to move to commercialization. The
46 business shall be deemed to have begun operation on the date that
47 the business first hired at least one employee in a full-time position.

1 "Total project cost" means the costs incurred in connection with
2 the redevelopment project by the developer until the issuance of a
3 permanent certificate of occupancy, or upon such other event
4 evidencing project completion as set forth in the incentive grant
5 agreement, for a specific investment or improvement.

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

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

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

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

31 (cf: P.L.2021, c.160, s.22)

32
33 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
34 read as follows:

35 56. a. (1) The New Jersey Aspire Program is hereby established
36 as a program under the jurisdiction of the New Jersey Economic
37 Development Authority. The authority shall administer the
38 program to encourage redevelopment projects through the provision
39 of incentive awards to reimburse developers for certain project
40 financing gap costs. The board may approve the award of an
41 incentive award to a developer upon application to the authority
42 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
43 C.34:1B-327). The value of all tax credits approved by the
44 authority pursuant to sections 54 through 67 of P.L.2020, c.156
45 (C.34:1B-322 through C.34:1B-335) **[,]** shall be subject to the
46 limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

47 (2) The authority, in consultation with the agency, shall adopt
48 rules and regulations, pursuant to subsection b. of section 67 of

1 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
2 administration of the affordability controls that shall apply to the
3 residential units constructed for occupancy by low- and moderate-
4 income households under the program, including, but not limited to,
5 residential units within residential projects that utilize federal low-
6 income housing tax credits awarded by the agency.
7 Notwithstanding any provision of law or regulation to the contrary,
8 the affordability controls shall, at a minimum, be consistent with the
9 affordability controls established in the rules and regulations
10 adopted pursuant to the “Fair Housing Act,” P.L.1985, c.222
11 (C.52:27D-301 et al.), as in effect immediately prior to the effective
12 date of P.L. , c. (C.) (pending before the Legislature as this
13 bill), including, but not limited to, any requirements concerning the
14 bedroom distributions, affordability averages, affirmative
15 marketing, and long-term deed restrictions of residential units
16 constructed for occupancy by low- and moderate-income
17 households.

18 b. The chief executive officer of the authority shall designate
19 one staff member per government-restricted municipality in order to
20 keep the municipality informed on activities within the municipality
21 and to coordinate economic development initiatives.

22 (cf: P.L.2020, c.156, s.56)

23

24 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
25 read as follows:

26 57. a. Prior to March 1, **[2027]** 2029, a developer shall be
27 eligible to receive an incentive award for a redevelopment project
28 only if the developer demonstrates to the authority at the time of
29 application that:

30 (1) without the incentive award, the redevelopment project is
31 not economically feasible;

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

35 (3) the redevelopment project, except a film studio, professional
36 stage, television studio, recording studio, screening room, or other
37 infrastructure used for film production, is located in the incentive
38 area;

39 (4) except for demolition and site remediation activities, the
40 developer has not commenced any construction at the site of the
41 redevelopment project prior to submitting an application, unless the
42 authority determines that the redevelopment project would not be
43 completed otherwise or, in the event the redevelopment project is to
44 be undertaken in phases, the requested incentive award is limited to
45 only phases for which construction has not yet commenced;

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

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

4 (7) (a) during the eligibility period, each worker employed to
5 perform construction work **【or building services work】** at the
6 redevelopment project shall be paid not less than the prevailing
7 wage rate for the worker's craft or trade, as determined by the
8 Commissioner of Labor and Workforce Development pursuant to
9 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
10 (C.34:11-56.58 et seq.) **【. In the event】**; **‘【or】’**

11 (b) during the eligibility period, each worker employed to
12 perform building services work at the redevelopment project ¹,
13 whether pursuant to contract by the developer or a commercial
14 tenant, commercial subtenant, or other commercial occupant, ¹ shall
15 be paid not less than the prevailing wage rate for the worker's craft
16 or trade, as determined by the Commissioner of Labor and
17 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
18 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except
19 that **‘【: (i)】’** this requirement shall not apply to workers employed
20 to perform building services work by a ¹ commercial ¹ tenant ¹,
21 commercial subtenant, or other commercial occupant ¹ that has a
22 leasehold interest ¹ or other occupancy right ¹ in a redevelopment
23 project, which leasehold interest ¹ or other occupancy right ¹
24 encompasses less than 5,000 square feet of space within the project
25 **‘【; and (ii) if】** . The developer shall include in all commercial
26 leases or other commercial occupancy agreements, and shall require
27 that all subleases or other commercial occupancy agreements
28 applicable to the redevelopment project include, a provision setting
29 forth the requirements of this subparagraph, which provision shall
30 be in a form acceptable to the authority. Notwithstanding any
31 provisions of law to the contrary, if a commercial tenant,
32 commercial subtenant, or other commercial occupant violates this
33 provision due to the underpayment of the required prevailing wage
34 rate, then the issuance of tax credits to the developer and any co-
35 applicant shall be delayed until such time as documentation
36 demonstrating compliance has been provided to the Commissioner
37 of Labor and Workforce Development, subsequently reviewed and
38 approved by the Commissioner of Labor and Workforce
39 Development, and verified by the authority, which reviews and
40 verification shall be completed. If a violation is not cured, or is not
41 capable of being cured, within one year of receipt of notice of the
42 violation, then the developer and any co-applicant shall forfeit 50
43 percent of the tax credits otherwise authorized for the tax period in
44 which the notice of violation was issued. If the violation is not
45 cured on or before the conclusion of that tax period, the developer
46 and any co-applicant shall forfeit up to 100 percent of the tax
47 credits otherwise authorized, as determined by the authority, in each

1 subsequent tax period until the first tax period for which
2 documentation demonstrating compliance has been provided to the
3 Commissioner of Labor and Workforce Development, subsequently
4 reviewed and approved by the Commissioner of Labor and
5 Workforce Development, and verified by the authority, which
6 reviews and verifications shall be completed. In this event, the
7 developer and any co-applicant shall be allowed the full tax credit
8 amount beginning in the tax period in which documentation of
9 compliance was reviewed and approved by Commissioner of Labor
10 and Workforce Development and verified by the authority, and
11 including each subsequent tax period in which the tax credits are
12 otherwise authorized;

13 (c) in the event¹ a redevelopment project¹, or any portion
14 thereof,¹ is undertaken by a tenant¹ pursuant to a contract¹ and the
15 tenant has a leasehold of more than 55 percent of space in the
16 building owned or controlled by the developer, [the] ¹[this] the¹
17 requirement [that each worker employed to perform building
18 service work at the building be paid not less than the prevailing
19 wage] ¹that each worker employed to perform building service
20 work at the building be paid not less than the prevailing wage¹ shall
21 apply to the entire building, except as otherwise provided in ¹[sub-
22 paragraph (i) of this]¹ subparagraph ¹(b) of this paragraph for
23 commercial tenants, commercial subtenants, or other commercial
24 occupants with a leasehold interest or other occupancy right
25 encompassing less than 5,000 square feet¹;

26 (8) (a) the redevelopment project shall be completed, and the
27 developer shall be issued a certificate of occupancy for the
28 redevelopment project facilities by the applicable enforcing agency
29 ^{1, 1} within four years of executing the incentive award agreement, or
30 in the case of a redevelopment project with a project cost in excess
31 of \$50,000,000, the incentive phase agreement corresponding to the
32 redevelopment project; or

33 (b) in the discretion of the authority, a redevelopment project
34 with a project cost in excess of \$50,000,000, and that is authorized
35 to be completed in phases, may be allowed no more than six years
36 from the date on which the incentive award agreement is executed
37 to be issued a certificate of occupancy by the applicable
38 enforcement agency;

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

44 (10) the developer is not more than 24 months in arrears at the
45 time of application.

46 b. In addition to the requirements set forth in subsection a. of
47 this section, for a commercial project to qualify for an incentive

1 award the developer shall demonstrate that the developer shall
2 contribute capital of at least 20 percent of the total project cost,
3 except that if a redevelopment project is located in a government-
4 restricted municipality, the developer shall contribute capital of at
5 least 10 percent of the total project cost.

6 c. In addition to the requirements set forth in subsection a. of
7 this section, for a residential project or a commercial project
8 comprised solely of a health care or health service center to qualify
9 for an incentive award, the residential project or health care or
10 health service center shall:

11 (1) have a total project cost of at least \$17,500,000, if the
12 project is located in a municipality with a population greater than
13 200,000 according to the latest federal decennial census;

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

17 (3) have a total project cost of at least \$5,000,000 if the project
18 is in a qualified incentive tract or government-restricted
19 municipality.

20 d. In addition to the requirements set forth in subsections a. and
21 c. of this section, for a residential project consisting of newly-
22 constructed residential units to qualify for an incentive award, the
23 developer shall reserve at least 20 percent of the residential units
24 constructed for occupancy by low- and moderate-income
25 households with affordability controls as **【**required under the "Fair
26 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)**】** adopted by
27 the authority, in consultation with the agency, in accordance with
28 paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
29 (C.34:1B-324), except that a residential project receiving a federal
30 historic rehabilitation tax credit pursuant to section 47 of the federal
31 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
32 pursuant to the "Historic Property Reinvestment Act," sections 2
33 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),
34 shall be exempt from the affordability controls related to bedroom
35 distribution.

36 e. Prior to the board considering an application submitted by a
37 developer, the authority shall confirm with the Department of Labor
38 and Workforce Development, the Department of Environmental
39 Protection, and the Department of the Treasury whether the
40 developer is in substantial good standing with the respective
41 department, or has entered into an agreement with the respective
42 department that includes a practical corrective action plan for the
43 developer. The developer shall certify that any contractors or
44 subcontractors that will perform work at the redevelopment project:
45 (1) are registered as required by "The Public Works Contractor
46 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
47 not been debarred by the Department of Labor and Workforce
48 Development from engaging in or bidding on Public Works

1 Contracts in the State; and (3) possess a tax clearance certificate
2 issued by the Division of Taxation in the Department of the
3 Treasury. The authority may also contract with an independent
4 third party to perform a background check on the developer.
5 (cf: P.L.2021, c.160, s.23)

6
7 4. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to
8 read as follows:

9 58. a. Prior to March 1, **【2027】** 2029, for redevelopment
10 projects eligible pursuant to section 57 of P.L.2020, c.156
11 (C.34:1B-325) for which a developer is seeking an incentive award
12 for the redevelopment project, the developer shall submit an
13 application to the authority and, in the case of a residential project,
14 shall submit an application to the authority and the agency, in a
15 form and manner prescribed in regulations adopted by the authority
16 **【, in consultation with the agency,】** pursuant to **【the provisions of**
17 **the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et**
18 **seq.)】** section 67 of P.L.2020, c.156 (C.34:1B-335). The authority
19 shall accept applications for incentive awards during the grant
20 periods established pursuant to section 59 of P.L.2020, c.156
21 (C.34:1B-327).

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

27 c. The authority shall review the project cost, evaluate and
28 validate the project financing gap estimated by the developer, and
29 conduct a State fiscal impact analysis to ensure that the overall
30 public assistance provided to the project will result in a net positive
31 benefit to the State, provided that the net benefit analysis shall not
32 apply to capital investment for a food delivery source; a health care
33 or health services center **【with a minimum of 10,000 square feet of**
34 **space devoted to health care or health services that is located in a**
35 **municipality with a Municipal Revitalization Index distress score of**
36 **at least 50 lacking adequate access, as determined by the**
37 **Commissioner of Health】**; or a residential project. In determining
38 whether a project will result in a net positive benefit to the State,
39 the authority shall not consider the value of any taxes exempted,
40 abated, rebated, or retained under the "Five-Year Exemption and
41 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
42 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.),
43 the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
44 (C.52:27H-60 et seq.), or any other law that has the effect of
45 lowering or eliminating the developer's State or local tax liability.
46 The determination made pursuant to this subsection shall be based
47 on the potential tax liability of the developer without regard for
48 potential tax losses if the developer were to locate in another state.

1 The authority shall assess the cost of these reviews to the applicant.
2 A developer shall pay to the authority the full amount of the direct
3 costs of an analysis concerning the developer's application for a tax
4 credit that a third party retained by the authority performs, if the
5 authority deems such retention to be necessary. The authority shall
6 evaluate the net economic benefits on a present value basis under
7 which the requested tax credit allocation amount is discounted to
8 present value at the same discount rate as the projected benefits
9 from the implementation of the proposed redevelopment project for
10 which an award of tax credits is being sought.

11 d. (1) For a redevelopment project subject to the requirement
12 of subsection c. of this section to be eligible for any tax credits
13 under the program, a developer shall demonstrate to the authority
14 that the award of tax credits will yield a net positive benefit to the
15 State equaling an amount determined by the authority through
16 regulation that exceeds the requested tax credit amount. The
17 developer shall certify, under the penalty of perjury, that all
18 documents submitted, and factual assertions made, to the authority
19 to demonstrate that the award of tax credits will yield a net positive
20 benefit to the State in accordance with this subsection are true and
21 accurate at the time of submission.

22 (2) A redevelopment project located in a government-restricted
23 municipality shall yield a net positive benefit to the State that
24 exceeds the requested tax credit amount, but the net benefit
25 requirement set by the authority for such redevelopment projects
26 may be up to 35 percentage points lower than the net benefit
27 requirement set by the authority for all other eligible redevelopment
28 projects.

29 (3) A commercial project that contains 50,000 or more square
30 feet of space devoted to research or technology focused incubator
31 and conferencing facilities for one or more institutions of higher
32 education or non-profit organizations, and which has a total project
33 cost of not less than \$50 million, shall yield a net positive benefit to
34 the State that exceeds the requested tax credit amount, but the net
35 benefit requirement set by the authority for such redevelopment
36 projects may be up to 35 percentage points lower than the net
37 benefit requirement set by the authority for all other eligible
38 redevelopment projects.

39 (4) A redevelopment project that is predominantly commercial
40 and that receives a federal historic rehabilitation tax credit pursuant
41 to section 47 of the federal Internal Revenue Code of 1986, 26
42 U.S.C. s.47, or a tax credit pursuant to the "Historic Property
43 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156
44 (C.34:1B-270 through C.34:1B-276), shall yield a net positive
45 benefit to the State that exceeds the requested tax credit amount, but
46 the net benefit requirement set by the authority for such
47 redevelopment projects may be up to 35 percentage points lower

1 than the net benefit requirement set by the authority for all other
2 eligible redevelopment projects.

3 (5) ¹A commercial project that is located on land owned by the
4 federal government on or before December 31, 2005 shall yield a
5 net positive benefit to the State that exceeds the requested tax credit
6 amount, but the net benefit requirement set by the authority for such
7 redevelopment projects may be up to 35 percentage points lower
8 than the net benefit requirement set by the authority for all other
9 eligible redevelopment projects.

10 (6)¹ A redevelopment project that is undertaken by a major
11 cultural institution to renovate existing space or expand services
12 into additional space, and in which the major cultural institution
13 realizes all returns from the redevelopment project, shall yield a net
14 positive benefit to the State that exceeds the requested tax credit
15 amount, but the net benefit requirement set by the authority for such
16 redevelopment projects may be lower than the net benefit
17 requirement set by the authority for all other eligible redevelopment
18 projects.

19 e. If at any time during the eligibility period the authority
20 determines that the developer made a material misrepresentation on
21 the developer's application, the developer shall forfeit the incentive
22 award.

23 f. If circumstances require a developer to amend its application
24 to the authority, then the developer, or an authorized agent of the
25 developer, shall certify to the authority that the information
26 provided in its amended application is true under the penalty of
27 perjury.

28 (cf: P.L.2021, c.160, s.24)

29

30 5. Section 59 of P.L.2020, c.156 (C.34:1B-327) is amended to
31 read as follows:

32 59. a. Prior to March 1, **[2027]** 2029, for redevelopment projects
33 eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325),
34 the authority shall award incentive awards based on the order in
35 which complete, qualifying applications were received by the
36 authority. If a developer intends to apply to both the authority and
37 the agency for subsidies, the developer shall notify the agency
38 simultaneously with any application made to the authority. The
39 authority shall transmit its grant determination for such residential
40 projects to the agency along with any information developed by the
41 authority and confirmation of the authority's intent to provide an
42 incentive award or award to the project. Approval of an application
43 by the agency shall be the final determination required for an
44 incentive award for a residential project under this section.

45 b. Prior to allocating an incentive award to a redevelopment
46 project, the authority shall confirm with the Department of Labor
47 and Workforce Development, the Department of Environmental
48 Protection, and the Department of the Treasury that the developer is

1 in substantial good standing with the respective department, or a
2 developer not in substantial good standing with each department has
3 entered into an agreement with the respective department that
4 includes a practical corrective action plan for the developer, and
5 that the developer shall confirm that each contractor or
6 subcontractor performing work at the redevelopment project: (1) is
7 registered as required by "The Public Works Contractor
8 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
9 not been debarred by the Department of Labor and Workforce
10 Development from engaging in or bidding on Public Works
11 Contracts in the State; and (3) possesses a tax clearance certificate
12 issued by the Division of Taxation in the Department of the
13 Treasury. The authority may also contract with an independent
14 third party to perform a background check on the developer.
15 Provided that the developer, and all contractors and subcontractors,
16 are in compliance with this subsection, the authority shall allocate
17 incentive awards to redevelopment projects according to the
18 redevelopment project's score and until either the available
19 incentive awards are exhausted or all redevelopment projects
20 obtaining the minimum score receive an incentive award, whichever
21 occurs first. If insufficient funding exists to fully fund all eligible
22 projects, a project may be offered partial funding.
23 (cf: P.L.2021, c.160, s.25)

24
25 6. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
26 read as follows:

27 60. a. (1) Following approval and selection of an application
28 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
29 C.34:1B-327), the authority shall enter into an incentive award
30 agreement with the developer. The chief executive officer of the
31 authority shall negotiate the terms and conditions of the incentive
32 award agreement on behalf of the State.

33 (2) For a phased project, the incentive phase agreement shall set
34 forth, for each phase of the project and for the total project, the
35 capital investment requirements and the time periods in which each
36 phase of the project shall be commenced and completed. The
37 awarding of tax credits shall be conditioned on the developer's
38 compliance with the requirements of the agreement. A
39 redevelopment project may be completed in phases in accordance
40 with rules adopted by the authority if the redevelopment project has
41 a total project cost in excess of \$50,000,000.

42 b. An incentive award agreement shall specify the amount of
43 the incentive award the authority shall award to the developer and
44 the duration of the eligibility period **[, which]** . The duration of the
45 eligibility period shall not exceed 15 years for a commercial or
46 mixed-use project and shall not exceed 10 years for a residential
47 project, except that to reduce the total value of tax credits needed to
48 reimburse a developer for all or part of the project financing gap of

1 a redevelopment project, the authority may, in its discretion,
2 approve a duration for the eligibility period that is shorter than the
3 applicable maximum periods. The incentive award agreement shall
4 provide an estimated date of completion and include a requirement
5 for periodic progress reports, including the submittal of executed
6 financing commitments and documents that evidence site control.
7 If the authority does not receive periodic progress reports, or if the
8 progress reports demonstrate unsatisfactory progress, then the
9 authority may rescind the incentive award. If the authority rescinds
10 an incentive award in the same calendar year in which the authority
11 approved the incentive award, then the authority may assign the
12 incentive award to another applicant. The incentive award
13 agreement may also provide for a verification of the financing gap
14 at the time the developer provides executed financing commitments
15 to the authority and a verification of the developer's projected cash
16 flow at the time of certification that the project is completed.

17 c. To ensure the protection of taxpayer money, if the authority
18 determines at project certification that the actual capital financing
19 approach utilized by the project has resulted in a financing gap that
20 is smaller than the financing gap determined at board approval, the
21 authority shall reduce the amount of the tax credit or accept
22 payment from the developer on a pro rata basis. If there is no
23 project financing gap due to the actual capital financing approach
24 utilized by the project, then the developer shall forfeit the incentive
25 award. At the end of the seventh year of the eligibility period, the
26 authority shall evaluate the developer's rate of return on investment
27 and compare that rate of return on investment to the reasonable and
28 appropriate rate of return at the time of board approval. If the
29 actual rate of return on investment exceeds the reasonable and
30 appropriate rate of return on investment at the time of board
31 approval by more than 15 percent, the authority shall require the
32 developer to pay up to 20 percent of the amount in excess of the
33 reasonable and appropriate rate of return on investment. The
34 authority shall require an escrow account to be held by the authority
35 until the end of the eligibility period. Following the final year of
36 the eligibility period, the authority shall determine if the developer's
37 rate of return exceeded the reasonable and appropriate rate of return
38 determined at board approval. If the final rate of return does not
39 exceed the reasonable and appropriate rate of return determined at
40 board approval, the authority shall release to the developer the
41 escrowed funds. If the project final rate of return exceeds the
42 reasonable and appropriate rate of return determined at board
43 approval, the authority shall require the developer to pay up to 20
44 percent of the amount of the excess, which shall include the funds
45 held in escrow, and such funds shall be deposited in the State
46 General Fund.

47 d. The incentive award agreement shall include a requirement
48 that the authority confirm with the Department of Environmental

1 Protection, the Department of Labor and Workforce Development,
2 and the Department of the Treasury that the developer is in
3 substantial good standing with the respective department, or the
4 developer has entered into an agreement with the respective
5 department that includes a practical corrective action for the
6 developer, and the developer shall confirm that each contractor or
7 subcontractor performing work at the redevelopment project: (1) is
8 registered as required by "The Public Works Contractor
9 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
10 not been debarred by the Department of Labor and Workforce
11 Development from engaging in or bidding on Public Works
12 Contracts in the State; and (3) possesses a tax clearance certificate
13 issued by the Division of Taxation in the Department of the
14 Treasury. The incentive award agreement shall also include a
15 provision that the developer shall forfeit the incentive award in any
16 year in which the developer is neither in substantial good standing
17 with each department nor has entered into a practical corrective
18 action. The incentive award agreement shall also require a
19 developer to engage in on-site consultations with the Division of
20 Workplace Safety and Health in the Department of Health.

21 e. (1) Except as provided in paragraph (2) of this subsection,
22 the authority shall not enter into an incentive award agreement for a
23 redevelopment project that includes at least one retail establishment
24 which will have more than 10 employees, at least one distribution
25 center which will have more than 20 employees, or at least one
26 hospitality establishment which will have more than 10 employees,
27 unless the incentive award agreement includes a precondition that
28 any business that serves as the owner or operator of the retail
29 establishment **[or]** , distribution center, or hospitality establishment
30 enters into a labor harmony agreement with a labor organization or
31 cooperating labor organizations which represent retail
32 establishment, hospitality establishment, or distribution center
33 employees in the State.

34 (2) A labor harmony agreement shall be required only if the
35 State has a proprietary interest in the redevelopment project and
36 shall remain in effect for as long as the State acts as a market
37 participant in the redevelopment project. The authority may enter
38 into an incentive award agreement with a developer without the
39 labor harmony agreement required under paragraph (1) of this
40 subsection if the authority determines that the redevelopment
41 project would not be able to go forward if a labor harmony
42 agreement is required. The authority shall support the
43 determination by a written finding, which provides the specific
44 basis for the determination.

45 (3) **[As used in this subsection:**

46 "Hospitality establishment" means a hotel, motel, or any
47 business, however organized, that sells food, beverages, or both for
48 consumption by patrons on the premises.

1 "Labor harmony agreement" means an agreement between a
2 business that serves as the owner or operator of a retail
3 establishment or distribution center and one or more labor
4 organizations, which requires, for the duration of the agreement:
5 that any participating labor organization and its members agree to
6 refrain from picketing, work stoppages, boycotts, or other economic
7 interference against the business; and that the business agrees to
8 maintain a neutral posture with respect to efforts of any
9 participating labor organization to represent employees at an
10 establishment or other unit in the retail establishment or distribution
11 center, agrees to permit the labor organization to have access to the
12 employees, and agrees to guarantee to the labor organization the
13 right to obtain recognition as the exclusive collective bargaining
14 representatives of the employees in an establishment or unit at the
15 retail establishment or distribution center by demonstrating to the
16 New Jersey State Board of Mediation, Division of Private
17 Employment Dispute Settlement, or a mutually agreed-upon,
18 neutral, third-party, that a majority of workers in the unit have
19 shown their preference for the labor organization to be their
20 representative by signing authorization cards indicating that
21 preference. The labor organization or organizations shall be from a
22 list of labor organizations which have requested to be on the list and
23 which the Commissioner of Labor and Workforce Development has
24 determined represent substantial numbers of retail or distribution
25 center employees in the State.】 (Deleted by amendment, P.L. ,
26 c.) (pending before the Legislature as this bill)

27 f. (1) ¹**【For】** Except for a residential project that is located in a
28 government-restricted municipality, and in which 100 percent of the
29 residential units constructed in the residential project are reserved
30 for occupancy by low- and moderate-income households, for¹ a
31 redevelopment project whose total project cost equals or exceeds
32 \$10 million, in addition to the incentive award agreement, a
33 developer shall enter into a community benefits agreement with the
34 authority and the county or municipality in which the
35 redevelopment project is located. The agreement may include, but
36 shall not be limited to, requirements for training, employment, and
37 youth development and free services to underserved communities in
38 and around the community in which the redevelopment project is
39 located. Prior to entering a community benefits agreement, the
40 governing body of the county or municipality in which the
41 redevelopment project is located shall hold at least one public
42 hearing at which the governing body shall hear testimony from
43 residents, community groups, and other stakeholders on the needs
44 of the community that the agreement should address.

45 (2) The community benefits agreement shall provide for the
46 creation of a community advisory committee to oversee the
47 implementation of the agreement, monitor successes, ensure
48 compliance with the terms of the agreement, and produce an annual

1 public report. The community advisory committee created pursuant
2 to this paragraph shall be comprised of representatives of diverse
3 community groups and residents of the county or municipality in
4 which the redevelopment project is located.

5 (3) At the time the developer submits the annual report required
6 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
7 authority, the developer shall certify, under the penalty of perjury,
8 that it is in compliance with the terms of the community benefits
9 agreement. If the developer fails to provide the certification
10 required pursuant to this paragraph or the authority determines that
11 the developer is not in compliance with the terms of the community
12 benefits agreement based on the reports submitted by the
13 community advisory committee pursuant to paragraph (2) of this
14 subsection, then the authority may rescind an award or recapture all
15 or part of any tax credits awarded.

16 (4) **[A]** Notwithstanding any requirement of this subsection to
17 the contrary, a developer shall [not be required to enter into] be
18 considered to have met the requirements of a community benefits
19 agreement pursuant to this subsection if the developer submits to
20 the authority:

21 (a) a copy of either the developer's approval letter from the
22 authority or a redevelopment agreement applicable to the qualified
23 business facility, provided that the approval letter or redevelopment
24 agreement is certified by the municipality in which the
25 redevelopment project is located, and includes provisions that meet
26 or exceed the standards required for a community benefits
27 agreement in this subsection, as determined by the chief executive
28 officer pursuant to rules adopted by the authority; or (b) a
29 resolution adopted by the governing body of the municipality in
30 which the redevelopment project is located, which resolution shall
31 be adopted after at least one public hearing at which the governing
32 body provides an opportunity for residents, community groups, and
33 other stakeholders to testify, and which resolution shall state that
34 the governing body has determined that the redevelopment project
35 will provide economic and social benefits to the community that
36 fulfill the purposes of this subsection, which benefits render a
37 separate community benefit agreement unnecessary, and explain the
38 reasons supporting the governing body's determination.

39 g. A developer shall submit, prior to the first disbursement of
40 tax credits under the incentive award agreement, but no later than
41 six months following project completion, satisfactory evidence of
42 actual project costs, as certified by a certified public accountant,
43 evidence of a temporary certificate of occupancy, or other event
44 evidencing project completion that begins the eligibility period
45 indicated in the incentive award agreement. The developer, or an
46 authorized agent of the developer, shall certify that the information
47 provided pursuant to this subsection is true under the penalty of
48 perjury. Claims, records, or statements submitted by a developer to

1 the authority in order to receive tax credits shall not be considered
2 claims, records, or statements made in connection with State tax
3 laws.

4 h. The incentive award agreement shall include a provision
5 allowing the authority to extend, in individual cases, the deadline
6 for any annual reporting or certification requirement.

7 i. The incentive award agreement shall include one or more
8 provisions, as determined by the authority, concerning the terms
9 and conditions for default and the remedies for the developer of a
10 redevelopment project in the event of default. The incentive award
11 agreement shall not allow the authority to declare a cross-default
12 when the developer of a redevelopment project, including any
13 business affiliate of the developer or any other entity with common
14 principals as the developer, is in default with any other assistance
15 program administered by the authority.

16 (cf: P.L.2021, c.160, s.26)

17

18 7. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
19 read as follows:

20 61. a. Up to the limits established in subsection b. of this
21 section and in accordance with an incentive award agreement,
22 beginning upon the receipt of occupancy permits for any portion of
23 the redevelopment project, or upon any other event evidencing
24 project completion as set forth in the incentive award agreement, a
25 developer shall be allowed a total tax credit that shall not exceed:

26 (1) ~~'[70]~~ 80¹ percent of the total project cost for a
27 redevelopment project that is located in a government-restricted
28 municipality;

29 ~~(2)~~ 60 percent of the total project cost for ~~the new construction~~
30 ~~of~~ a residential project that receives a four-percent allocation from
31 the federal Low Income Housing Tax Credit Program administered
32 by the agency ~~;~~;

33 (2) 50 percent of the total project cost for a commercial project
34 that is located in a government-restricted municipality; ~~]~~ or a
35 redevelopment project that is located in a qualified incentive tract,
36 enhanced area, or a municipality with a Municipal Revitalization
37 Index score of at least 50; or

38 (3) ~~[45]~~ 50 percent of the total project cost for any other
39 redevelopment project.

40 b. The value of all tax credits approved by the authority under
41 the program for a redevelopment project phase shall not exceed:

42 (1) ~~[\$60,000,000]~~ \$120,000,000 per redevelopment project or
43 phase for a redevelopment project that is located in a government-
44 restricted municipality;

45 (2) \$90,000,000 per redevelopment project or phase for a
46 ~~[residential]~~ redevelopment project that is allowed a tax credit
47 under paragraph ~~[(1)]~~ ~~(2)~~ of subsection a. of this section ~~],~~ or a

1 redevelopment project or phase that is located in a qualified
2 incentive tract, government-restricted municipality, or municipality
3 with a Municipal Revitalization Index distress score of at least 50];
4 and

5 ~~[(2) \$42,000,000]~~ (3) \$60,000,000 for any other redevelopment
6 project or phase.

7 (cf: P.L.2021, c.160, s.27)

8

9 ¹8. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
10 read as follows:

11 63. a. A developer may apply to the director and the chief
12 executive officer of the authority for a tax credit transfer certificate,
13 covering one or more years, in lieu of the developer being allowed
14 any amount of the credit against the tax liability of the developer.
15 The tax credit transfer certificate, upon receipt thereof by the
16 developer from the director and the chief executive officer of the
17 authority, may be sold or assigned, in full or in part in an amount
18 not less than \$25,000, in the privilege period during which the
19 developer receives the tax credit transfer certificate from the
20 director, to another person, who may apply the credit against a tax
21 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
22 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
23 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
24 certificate provided to the developer shall include a statement
25 waiving the developer's right to claim the amount of the credit that
26 the developer has elected to sell or assign against the developer's
27 tax liability.

28 b. The developer shall not sell or assign, including a collateral
29 assignment, a tax credit transfer certificate allowed under this
30 section for consideration received by the developer of less than 85
31 percent of the transferred credit amount before considering any
32 further discounting to present value which shall be permitted,
33 except a developer of a residential project consisting of newly-
34 constructed residential units may assign a tax credit transfer
35 certificate for consideration of less than 85 percent subject to the
36 submission of a plan to the authority and the agency to use the
37 proceeds derived from the assignment of tax credits to complete the
38 residential project, except a developer of a residential project
39 consisting of newly-constructed residential units that has received
40 federal low income housing tax credits under 26 U.S.C.
41 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
42 consideration of no less than 65 percent subject to the submission of
43 a plan to the authority and the New Jersey Housing and Mortgage
44 Finance Agency to use the proceeds derived from the assignment of
45 tax credits to complete the residential project. The tax credit
46 transfer certificate issued to a developer by the director shall be
47 subject to any limitations and conditions imposed on the application
48 of State tax credits pursuant to sections 54 through 67 of P.L.2020,

1 c.156 (C.34:1B-322 through C.34:1B-335) and any other terms and
 2 conditions that the director may prescribe; provided, however, that
 3 the holder of a tax credit certificate may transfer all or part of the
 4 tax credit amount, on or after the date of issuance of the tax credit
 5 transfer certificate, for use by the transferee in the tax period for
 6 which it was issued, and the transferee may carry forward all or part
 7 of the tax credit amount in any of the next five successive tax
 8 periods. Notwithstanding any provision of this section to the
 9 contrary, the amount of tax credits that may be claimed by the
 10 transferee in any tax period shall not exceed the total tax credit
 11 amount divided by the duration of the eligibility period in years.

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

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

- 18 (1) the name of the transferrer;
- 19 (2) the name of the transferee;
- 20 (3) the value of the tax credit transfer certificate; and
- 21 (4) the consideration received by the transferrer.¹

22 (cf: P.L.2021, c.160, s.28)

23

24 ¹~~8.~~ 9.¹ Section 65 of P.L.2020, c.156 (C.34:1B-333) is
 25 amended to read as follows:

26 65. a. As used in this section, "transformative project" means a
 27 redevelopment project; that has a project financing gap ~~[,]~~ ; that
 28 has a total project cost of at least ~~[\$100,000,000, and]~~
 29 ~~\$150,000,000;~~ that includes ~~[500,000]~~ 200,000 or more square feet
 30 of new or substantially renovated industrial, commercial, or
 31 residential space ~~[or]~~ for a project located in a government-
 32 restricted municipality, that includes 250,000 or more square feet of
 33 film studios, professional stages, television studios, recording
 34 studios, screening rooms, or other infrastructure for film
 35 production, that includes 300,000 or more square feet of new or
 36 substantially renovated industrial, commercial, or residential space
 37 for a project located in an enhanced area, or that includes 500,000
 38 or more square feet of new or substantially renovated industrial,
 39 commercial, or residential space for any other project; and ~~[which]~~
 40 , for a commercial project, that is of special economic importance as
 41 measured by the level of new jobs, new capital investment,
 42 opportunities to leverage leadership in a high-priority targeted
 43 industry, or other state priorities as determined by the authority
 44 pursuant to rules and regulations promulgated to implement this
 45 section. Notwithstanding the provisions of subsection b. of section
 46 ¹~~12~~ 14¹ of P.L. , c. (C.) (pending before the Legislature
 47 as this bill) to the contrary, for applications submitted on and after

1 the effective date of P.L. , c. (C.) (pending before the
2 Legislature as this bill), if the redevelopment project is located
3 entirely on land designated by the Department of Environmental
4 Protection as a brownfield development area pursuant to section 7
5 of P.L.2005, c.223 (C.58:10B-25.1), and the project cost of the
6 redevelopment project includes at least \$15,000,000 in
7 environmental remediation costs, the redevelopment project shall
8 constitute a project of special economic importance. A
9 transformative project may be completed in phases, which phases
10 may be determined by the authority based on factors such as written
11 architectural plans and specifications completed before or during
12 the physical work, certificates of occupancy, or financial and
13 operational plans. The criteria developed by the authority shall
14 include, but shall not be limited to:

15 (1) the extent to which the proposed transformative project
16 would create modern facilities that enhance the State's
17 competitiveness in attracting targeted industries;

18 (2) (a) for a residential project, the construction of **[1,000]** 700
19 or more new residential units;

20 (b) for a residential project containing less than **[1,000]** 700
21 new residential units, the construction of **[250]** 200 or more new
22 residential units if the project is located in a government-restricted
23 municipality, **[350]** 300 or more residential units if the project is
24 located in an enhanced area, or **[600]** 400 or more residential units
25 for all other mixed-use projects;

26 (c) for a residential project containing less than **[1,000]** 700
27 new residential units, the construction of **[100,000]** 50,000 square
28 feet or more of **[retail or]** commercial space ¹**[**, with the majority
29 being **[commercial]** non-retail space¹; and

30 (d) for a residential project, 20 percent of the new residential
31 units shall be constructed for occupancy by low- and moderate-
32 income households with affordability controls as **[required under**
33 **the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)]**
34 adopted by the authority, in consultation with the agency, in
35 accordance with paragraph (2) of subsection a. of section 56 of
36 P.L.2020, c.156 (C.34:1B-324), except that a residential project
37 receiving a federal historic rehabilitation tax credit pursuant to
38 section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C.
39 s.47, or a tax credit pursuant to the "Historic Property Reinvestment
40 Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
41 C.34:1B-276), shall be exempt from the affordability controls
42 related to bedroom distribution; and

43 (3) the extent to which the proposed project would leverage the
44 competitive economic development advantages of the State's mass
45 transit assets, higher education assets, and other economic
46 development assets in attracting or retaining both employers and
47 skilled workers generally or in targeted industries.

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

4 b. (1) The authority may award incentive awards to
5 transformative projects in accordance with the provisions of
6 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through
7 C.34:1B-335).

8 (2) (a) For transformative projects completed in phases, the
9 developer shall enter into a transformative phase agreement with the
10 authority.

11 (b) As used in this subsection, "transformative phase agreement"
12 shall mean a sub-agreement of the incentive award agreement that
13 governs the timing, capital investment, and other applicable details
14 of the respective phase of a phased project.

15 (3) Notwithstanding the provisions of section 57 of P.L.2020,
16 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
17 (C.34:1B-269 et al.) **[,]** to the contrary, **[for]** a transformative
18 project shall be completed, and the developer shall be issued a
19 certificate of occupancy for the transformative project facilities by
20 the applicable enforcing agency¹,¹ within five years of executing
21 the incentive award agreement¹, except that the authority may, in
22 its discretion, extend this deadline by up to one additional year¹.
23 For transformative projects completed in phases, the transformative
24 project shall be completed, and the developer shall be issued
25 certificates of occupancy for all phases of the transformative project
26 facilities by the applicable enforcing agency, within **[eight]** 10
27 years of executing either the incentive award agreement or the first
28 transformative phase agreement corresponding to the transformative
29 project.

30 (4) Notwithstanding the provisions of sections 55 and 60 of
31 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
32 section of P.L.2020, c.156 (C.34:1B-269 et al.) **[,]** to the contrary,
33 each phase of a transformative project completed in phases shall
34 have a separate eligibility period. After completing each phase, the
35 developer shall submit a certification that the phase is completed.
36 If the authority approves the certification, the tax credit allowed to
37 the developer shall be increased by the tax credit amount
38 corresponding to that phase. Notwithstanding the different
39 eligibility periods for each phase, all conditions and requirements
40 applicable during an eligibility period pursuant to sections 55
41 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335)
42 shall apply to the entire transformative project until the end of the
43 eligibility period for the last phase.

44 (5) Notwithstanding the provisions of section 60 of P.L.2020,
45 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
46 (C.34:1B-269 et al.) **[,]** to the contrary, for a transformative project
47 completed in phases, a review of the project financing gap shall be

1 performed at the certification of completion of each phase, and the
2 authority shall re-evaluate the developer's rate of return in the
3 seventh year and at the end of the eligibility period for the last
4 phase, provided that the authority may also re-evaluate the
5 developer's rate of return during the fifth year of any earlier phase.

6 (6) A transformative project receiving an incentive award
7 pursuant to this section, other than a project that includes 250,000
8 or more square feet of film studios, professional stages, television
9 studios, recording studios, screening rooms or other infrastructure
10 for film production, shall be located in an incentive area, a
11 distressed municipality, a government-restricted municipality, or an
12 enhanced area. A transformative project receiving an incentive
13 award pursuant to this section that includes 250,000 or more square
14 feet of film studios, professional stages, television studios,
15 recording studios, screening rooms or other infrastructure for film
16 production may be located anywhere in the State. **【No more than**
17 **two transformative projects receiving an incentive award pursuant**
18 **to this section shall be located in the same municipality.】** The
19 authority shall not consider an application for a transformative
20 project unless the applicant submits with its application a letter
21 evidencing support for the transformative project from the
22 governing body of the municipality in which the transformative
23 project is located.

24 c. The authority shall review the transformative project cost,
25 evaluate and validate the project financing gap estimated by the
26 developer, and conduct a State fiscal impact analysis to ensure that
27 the overall public assistance provided to the transformative project
28 will result in a net positive benefit to the State. In determining
29 whether a transformative project will result in a net positive benefit
30 to the State, the authority shall not consider the value of any taxes
31 exempted, abated, rebated, or retained under the "Five-Year
32 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
33 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
34 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
35 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
36 effect of lowering or eliminating the developer's State or local tax
37 liability. The determination made pursuant to this subsection shall
38 be based on the potential tax liability of the developer without
39 regard for potential tax losses if the developer were to locate in
40 another state. The authority shall assess the cost of these reviews to
41 the applicant. A developer shall pay to the authority the full
42 amount of the direct costs of an analysis concerning the developer's
43 application for an incentive award that a third party retained by the
44 authority performs, if the authority deems such retention to be
45 necessary. The authority shall evaluate the net economic benefits
46 on a present value basis under which the requested tax credit
47 allocation amount is discounted to present value at the same
48 discount rate as the projected benefits from the implementation of

1 the proposed transformative project for which an award of tax
2 credits is being sought. Projects that are predominantly residential
3 shall be excluded from the calculation of the net benefit test
4 required pursuant to this subsection.

5 d. In determining net benefits for any business or person
6 considering locating in a transformative project and applying to
7 receive from the authority any other economic development
8 incentive subsequent to the award of transformative project tax
9 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
10 authority shall not credit the business or person with any benefit
11 that was previously credited to the transformative project pursuant
12 to section 65 of P.L.2020, c.156 (C.34:1B-333).

13 e. The authority shall administer the credits awarded pursuant
14 to this section in accordance with the provisions of sections 62 and
15 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

16 f. Prior to allocating an incentive award to a developer, the
17 authority shall confirm with the Department of Labor and
18 Workforce Development, the Department of Environmental
19 Protection, and the Department of the Treasury that the developer is
20 in substantial good standing with the respective department, or the
21 developer has entered into an agreement with the respective
22 department that includes a practical corrective action plan, and the
23 developer shall certify that each contractor or subcontractor
24 performing work at the transformative project: (1) is registered as
25 required by "The Public Works Contractor Registration Act,"
26 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
27 by the Department of Labor and Workforce Development from
28 engaging in or bidding on Public Works Contracts in the State; and
29 (3) possesses a tax clearance certificate issued by the Division of
30 Taxation in the Department of the Treasury. The authority may also
31 contract with an independent third party to perform a background
32 check on the developer.

33 g. Notwithstanding the limitation on incentive awards set forth
34 in subsection b. of section 61 and section 98 of P.L.2020, c.156
35 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
36 allow a developer of a transformative project a tax credit **],** as
37 reimbursement for certain project financing gap costs,**]** in an
38 amount not to exceed **[40]** the lesser of:

39 (1) (a) **'[70]** 80¹ percent of the total project cost for a
40 transformative project that is located in a government-restricted
41 municipality;

42 (b) 60 percent of the total project cost for a residential
43 transformative project that receives a four-percent allocation from
44 the federal Low Income Housing Tax Credit Program administered
45 by the agency or a transformative project that is located in a
46 qualified incentive tract, enhanced area, or a municipality with a
47 Municipal Revitalization Index score of at least 50; or

1 (c) 50 percent of the total project cost [.] for any other
2 transformative project;

3 (2) the total value of the project financing gap [.] ; or

4 [\$350,000,000 whichever is less; provided, however,] (3)
5 \$400,000,000, except that for a transformative project that is
6 developed in phases, the [\$350,000,000] \$400,000,000 limitation
7 on incentive awards set forth in this [subsection] paragraph shall
8 apply to the total aggregate award for all phases of the
9 transformative project.

10 (cf: P.L.2021, c.160, s.29)

11
12 ¹10. Section 66 of P.L.2020, c.156 (C.34:1B-334) is amended to
13 read as follows:

14 66. a. Beginning the year next following the year in which
15 P.L.2020, c.156 (C.34:1B-269 et al.) takes effect and every two
16 years thereafter, a State college or university established pursuant to
17 chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant
18 to an agreement executed between the State college or university
19 and the authority, prepare a report on the implementation of the
20 program, and submit the report to the authority, the Governor, and,
21 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
22 Legislature. Each biennial report required under this section shall
23 include a description of each redevelopment project receiving a tax
24 credit under the program, a detailed analysis of the consideration
25 given in each project to the factors set forth in sections 58 and 59 of
26 P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), in the case of a
27 commercial project, the return on investment for incentive awards
28 provided and the commercial project's impact on the State's
29 economy, and any other metrics the State college or university
30 determines are relevant based upon national best practices. The
31 authority shall prepare a written response to the report, which the
32 authority shall submit to the Governor and, pursuant to section 2 of
33 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

34 b. On or before December 31, 2023, the authority shall submit a
35 report to the Governor and, pursuant to section 2 of P.L.1991, c.164
36 (C.52:14-19.1), the Legislature on the effectiveness of the program
37 in encouraging development in government-restricted
38 municipalities, which report shall include, at a minimum,
39 recommendations to incentivize additional development in
40 government-restricted municipalities through financial assistance or
41 other incentives that the authority determines are appropriate.¹

42 (cf: P.L.2020, c.156, s.66)

43
44 ¹[9.] 11.¹ Section 67 of P.L.2020, c.156 (C.34:1B-335) is
45 amended to read as follows:

46 67. a. Notwithstanding the provisions of the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) [.] to the

1 contrary, except as otherwise provided in subsection b. of this
2 section, the chief executive officer of the authority may adopt,
3 immediately, upon filing with the Office of Administrative Law,
4 regulations that the chief executive officer deems necessary to
5 implement the provisions of sections 54 through 67 of P.L.2020,
6 c.156 (C.34:1B-322 through C.34:1B-335), which regulations shall
7 be effective for a period not to exceed 180 days from the date of the
8 filing. The chief executive officer shall thereafter amend, adopt, or
9 readopt the regulations in accordance with the requirements of
10 P.L.1968, c.410 (C.52:14B-1 et seq.).

11 b. Notwithstanding the provisions of the “Administrative
12 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
13 contrary, the chief executive officer of the authority shall, in
14 consultation with the agency, adopt, immediately, upon filing with
15 the Office of Administrative Law, such rules and regulations as the
16 chief executive officer deems necessary to implement the provisions
17 of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
18 C.34:1B-335), as amended and supplemented by P.L. ,
19 c. (C.) (pending before the Legislature as this bill), which
20 rules and regulations shall be effective for a period not to exceed
21 365 days after the date of the filing. Before the expiration of the
22 rules and regulations, the chief executive officer shall amend, adopt,
23 or readopt the rules and regulations in accordance with the
24 requirements of the “Administrative Procedure Act,” P.L.1968,
25 c.410 (C.52:14B-1 et seq.).
26 (cf: P.L.2020, c.156, s.67)
27

28 ¹**[10.] 12.** Section 71 of P.L.2020, c.156 (C.34:1B-339) is
29 amended to read as follows:

30 71. a. Beginning on the effective date of P.L.2020, c.156
31 (C.34:1B-269 et al.), but prior to March 1, **[2027]** 2029, to be
32 eligible for tax credits under the program, a business's chief
33 executive officer, or equivalent officer, shall demonstrate to the
34 authority at the time of application that:

35 (1) the business will make, acquire, or lease a capital investment
36 at the qualified business facility equal to or greater than the
37 applicable amount set forth in subsection b. of this section;

38 (2) the business will create or retain new and retained full-time
39 jobs in the State in an amount equal to or greater than the applicable
40 number set forth in subsection c. of this section;

41 (3) the qualified business facility is located in a qualified
42 incentive area;

43 (4) the award of tax credits will be a material factor in the
44 business's decision to create or retain the number of new and
45 retained full-time jobs set forth in its application;

46 (5) the award of tax credits, the capital investment resultant
47 from the award of tax credits, and the resultant creation and
48 retention of new and retained full-time jobs will yield a net positive

1 benefit to the State equaling at least 400 percent of the requested
2 tax credit allocation amount, or for a phased project the requested
3 tax credit allocation amount for the initial phase, and on a
4 cumulative basis each phase thereafter, which determination shall
5 be calculated prior to considering the value of the requested tax
6 credit under the program and shall be based on the benefits
7 generated during the period of time from approval through the end
8 of the commitment period, or through the end of the longer period
9 of extended commitment that the business may elect for purposes of
10 receiving credit for benefits projected to occur after the expiration
11 of the commitment period, except that:

12 (a) an award of tax credits to a business for a qualified business
13 facility located in a distressed municipality or an enhanced area
14 shall yield a net positive benefit to the State, based on the benefits
15 generated during the period of time from approval through the end
16 of the commitment period, that equals at least 300 percent of the
17 requested tax credit amount;

18 (b) an award of tax credits to a business for a qualified business
19 facility located in a government-restricted municipality, or for a
20 mega project, shall yield a net positive benefit to the State, based on
21 the benefits generated during the period of time from approval
22 through the end of the commitment period, that equals at least 200
23 percent of the requested tax credit amount;

24 (c) the net economic benefits shall be evaluated on a present
25 value basis with the requested tax credit allocation amount
26 discounted to present value at the same discount rate as the benefits
27 from capital investment resultant from the award of tax credits and
28 the resultant retention and creation of full-time jobs as provided in
29 subparagraph (d) of this paragraph; and

30 (d) a business may elect a period of extended commitment
31 beyond the commitment period for which time the economic
32 benefits shall be creditable to the determination of the net economic
33 benefit of the project, and a business electing a period of extended
34 commitment and failing to maintain the project through the
35 expiration of that extended commitment period shall be obligated to
36 repay a proportion of the incremental benefits received on account
37 of having extended the commitment period, taking into
38 consideration the number of years of extended commitment during
39 which the business maintained the project;

40 (e) in making the determination required pursuant to this
41 paragraph, the authority shall not consider the value of any taxes
42 exempted, abated, rebated, or retained under the "Five-Year
43 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
44 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
45 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
46 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
47 effect of lowering or eliminating the business's State or local tax
48 liability, and the business's chief executive officer or equivalent

1 officer shall certify, under the penalty of perjury, that all documents
2 submitted, and factual assertions made, to the authority to
3 demonstrate that the award of tax credits will yield a net positive
4 benefit to the State in accordance with this paragraph are true and
5 accurate at the time of submission;

6 (f) If, during the term of the program, the methodology used by
7 the authority in projecting benefits of a project in making the
8 determination required pursuant to this paragraph is modified, the
9 respective percentages by which the benefits must exceed the
10 requested tax credit allocation amount set forth pursuant to this
11 paragraph (5) may be adjusted to ensure consistent application of
12 the respective thresholds in this paragraph (5) applied to each
13 application;

14 (6) the qualified business facility shall be in compliance with
15 minimum environmental and sustainability standards;

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

19 (8) (a) each worker employed to perform construction work or
20 building services work at the qualified business facility shall be
21 paid not less than the prevailing wage rate for the worker's craft or
22 trade, as determined by the Commissioner of Labor and Workforce
23 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
24 and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

25 (i) the work performed under the contract is performed at a
26 qualified business facility owned by a landlord that is not a business
27 receiving authority assistance;

28 (ii) the landlord is a party to the construction contract, building
29 services contract, or both; and

30 (iii) the qualified business facility constitutes a lease of less than
31 35 percent of the entire facility at the time of contract and under any
32 agreement to subsequently lease the qualified business facility.

33 (b) In accordance with section 1 of P.L.1979, c.303
34 (C.34:1B-5.1), nothing in this paragraph shall be construed as
35 requiring the payment of prevailing wage for construction
36 commencing more than two years after the authority has issued the
37 first certificate of compliance pursuant to paragraph (2) of
38 subsection a. of section 77 of P.L.2020, c.156 (C.34:1B-345).

39 b. (1) The minimum capital investment required to be eligible
40 under the program shall be as follows:

41 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
42 existing industrial, warehousing, logistics, or research and
43 development portion of the premises for continued similar use by
44 the business, a minimum investment of \$20 per square foot of gross
45 leasable area;

46 (b) for the new construction of an industrial, warehousing,
47 logistics, or research and development portion of the premises for

- 1 use by the business, a minimum investment of \$60 per square foot
2 of gross leasable area;
- 3 (c) for the rehabilitation, improvement, fit-out, or retrofit of
4 existing portion of the premises that does not qualify pursuant to
5 subparagraph (a) or (b) of this paragraph, a minimum investment of
6 \$40 per square foot of gross leasable area;
- 7 (d) for the new construction of a portion of the premises that
8 does not qualify pursuant to subparagraph (a) or (b) of this
9 paragraph, a minimum investment of \$120 per square foot of gross
10 leasable area; and
- 11 (e) for a small business, no new minimum capital investment
12 shall be required, provided the applicant has demonstrated evidence
13 satisfactory to the authority of its intent to remain in the State for
14 the commitment period.
- 15 (2) In the event the business invests less than that amount set
16 forth in paragraph (1) of this subsection in the qualified business
17 facility, the business shall donate the uninvested balance to the
18 infrastructure fund established pursuant to section 79 of P.L.2020,
19 c.156 (C.52:27D-520).
- 20 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
21 this subsection, the authority may adopt, pursuant to the provisions
22 of the "Administrative Procedure Act," P.L.1968, c.410
23 (C.52:14B-1 et seq.), rules and regulations adjusting the minimum
24 capital investment amounts required under the program when
25 necessary to respond to the prevailing economic conditions in the
26 State.
- 27 c. (1) The minimum number of new or retained full-time jobs
28 required to be eligible under the program shall be as follows:
- 29 (a) for a small business, 25 percent growth of its workforce with
30 new full-time jobs within the eligibility period in accordance with
31 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);
- 32 (b) for a business engaged primarily in a targeted industry which
33 does not qualify as a small business, 25 new full-time jobs;
- 34 (c) for any other business, a minimum of 35 new full-time jobs;
- 35 (d) for a business eligible for new full-time jobs under
36 subparagraphs (b) or (c) of this paragraph, the business shall also be
37 eligible for retained full-time jobs in addition to the new full-time
38 jobs if the business will retain 150 retained full-time jobs when
39 locating in a government-restricted municipality, 250 retained full-
40 time jobs when locating in a qualified incentive tract or enhanced
41 area municipality, or 500 retained full-time jobs when locating
42 anywhere else in the State;
- 43 (e) for a business not eligible under subparagraphs (b), (c), or (d)
44 of this paragraph and locating in a qualified incentive tract,
45 enhanced area, or government-restricted municipality that will
46 retain 500 or more retained full-time jobs, a minimum of the
47 business's retained full-time jobs at the time of application;

1 (f) for a business not eligible under subparagraphs (b), (c), (d), or
2 (e) of this paragraph and located in the State that will retain 1,000
3 or more retained full-time jobs, a minimum of the business's
4 retained full-time jobs at the time of application.

5 (2) Notwithstanding the provisions of paragraph (1) of this
6 subsection, the authority may adopt, pursuant to the provisions of
7 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
8 seq.), rules and regulations adjusting the minimum number of new
9 or retained full-time jobs required under the program when
10 necessary to respond to the prevailing economic conditions in the
11 State.

12 d. A business that provides and adheres to a plan that
13 demonstrates that the qualified business facility is capable of
14 accommodating more than half of the business's new and retained
15 full-time employees as approved and that certifies, under the
16 penalty of perjury, that not less than 80 percent of the withholdings
17 of new and retained full-time jobs are subject to the "New Jersey
18 Gross Income Tax Act," N.J.S.54A:1-1 et seq. shall be eligible.
19 The requirements set forth in this subsection may be modified by
20 the authority to respond to an emergency, disaster, or other factors
21 that result in employees of an eligible business having to work from
22 a location other than the qualified business facility.

23 e. The chief executive officer of the business, or an equivalent
24 officer, shall certify that all factual representations made by the
25 business to the authority pursuant to subsection a. of this section are
26 true under the penalty of perjury.

27 f. A business eligible pursuant to this section may submit an
28 application to the authority in accordance with the provisions of
29 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
30 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
31 March 1, **[2027]** 2029.

32 (cf: P.L.2021, c.160, s.31)

33
34 ¹**[11.] 13.**¹ Section 98 of P.L.2020, c.156 (C.34:1B-362) is
35 amended to read as follows:

36 98. a. The combined value of all tax credits awarded under the
37 "Historic Property Reinvestment Act," sections **[1]** 2 through 8 of
38 P.L.2020, c.156 **[(C.34:1B-269)]** (C.34:1B-270 through
39 C.34:1B-276); the **["Brownfield"]** "Brownfields Redevelopment
40 Incentive Program Act," sections 9 through 19 of P.L.2020, c.156
41 (C.34:1B-277 through C.34:1B-287); the "New Jersey Innovation
42 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
43 (C.34:1B-288 through C.34:1B-302); the "Food Desert Relief Act,"
44 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
45 C.34:1B-310); the "New Jersey Community-Anchored
46 Development Act," sections 43 through 53 of P.L.2020, c.156
47 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire
48 Program Act," sections 54 through 67 of P.L.2020, c.156

1 (C.34:1B-322 through C.34:1B-335); the "Emerge Program Act,"
2 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and
3 section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an
4 overall cap of \$11.5 billion over a **【seven-year】** nine-year period,
5 subject to the conditions and limitations set forth in this section. Of
6 this \$11.5 billion, \$2.5 billion shall be reserved for transformative
7 projects approved under the Aspire Program.

8 b. (1) The total value of tax credits awarded under any
9 constituent program of the "New Jersey Economic Recovery Act of
10 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
11 following annual limitations, except as otherwise provided in
12 subsection c. of this section:

13 (a) for tax credits awarded under the "Historic Property
14 Reinvestment Act," sections **【1】** 2 through 8 of P.L.2020, c.156
15 **【(C.34:1B-269】** (C.34:1B-270 through C.34:1B-276), the total
16 value of tax credits annually awarded during each of the first six
17 years of the **【seven-year】** nine-year period shall not exceed \$50
18 million;

19 (b) for tax credits awarded under the **【"Brownfield】**
20 "Brownfields Redevelopment Incentive Program Act," sections 9
21 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287),
22 the total value of tax credits annually awarded during each of the
23 first six years of the **【seven-year】** nine-year period shall not exceed
24 \$50 million;

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

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

37 (e) for tax credits awarded under the "New Jersey Community-
38 Anchored Development Act," sections 43 through 53 of P.L.2020,
39 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
40 credits annually awarded during each of the first six years of the
41 **【seven-year】** nine-year period shall not exceed \$200 million, except
42 that during each of the first six years of the **【seven-year】** nine-year
43 period, the authority shall annually award tax credits valuing no
44 greater than \$130 million for projects located in the 13 northern
45 counties of the State, and the authority shall annually award tax
46 credits valuing no greater than \$70 million for projects located in
47 the eight southern counties of the State. If during any of the first
48 six years of the **【seven-year】** nine-year period, the authority awards
49 tax credits in an amount less than the annual limitation for projects

1 located in northern counties or southern counties, as applicable, the
2 uncommitted portion of the annual limitation shall be available to
3 be deployed by the authority in a subsequent year, provided that the
4 uncommitted portion of tax credits shall be awarded for projects
5 located in the applicable geographic area, except that (i) after the
6 completion of the third year of the **【seven-year】** nine-year period,
7 the authority may deploy 50 percent of the uncommitted portion of
8 tax credits from any previous year without consideration to the
9 county in which a project is located; and (ii) after the completion of
10 the sixth year of the **【seven-year】** nine-year period, the authority
11 may deploy all available tax credits, including the uncommitted
12 portion of the annual limitation for any previous year, without
13 consideration to the county in which a project is located;

14 (f) for tax credits awarded under the "New Jersey Aspire
15 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
16 322 through C.34:1B-335), and the "Emerge Program Act," sections
17 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
18 including tax credits awarded for transformative projects, the total
19 value of tax credits annually awarded during each of the first six
20 years of the **【seven-year】** nine-year period shall not exceed \$1.1
21 billion. If the authority awards tax credits in an amount less than
22 the annual limitation, then the uncommitted portion of the annual
23 limitation shall be made available for qualified offshore wind
24 projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-
25 209.4), pursuant to subparagraph (h) of this paragraph, or New
26 Jersey studio partners and New Jersey film-lease partners awarded
27 under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and
28 C.54A:4-12b), pursuant to subparagraph (i) of this paragraph.
29 During each of the first six years of the **【seven-year】** nine-year
30 period, the authority shall annually award tax credits valuing no
31 greater than \$715 million for projects located in the northern
32 counties of the State, and the authority shall annually award tax
33 credits valuing no greater than \$385 million for projects located in
34 the southern counties of the State under the "New Jersey Aspire
35 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
36 322 through C.34:1B-335), and the "Emerge Program Act," sections
37 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during
38 any of the first six years of the **【seven-year】** nine-year period, the
39 authority awards tax credits under the "New Jersey Aspire Program
40 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322
41 through C.34:1B-335), and the "Emerge Program Act," sections 68
42 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount
43 less than the annual limitation for projects located in northern
44 counties or southern counties, as applicable, the uncommitted
45 portion of the annual limitation shall be available to be deployed by
46 the authority in a subsequent year, provided that the uncommitted
47 portion of tax credits shall be awarded for projects located in the

1 applicable geographic area, except that (i) after the completion of
2 the third year of the ~~【seven-year】~~ nine-year period, the authority
3 may deploy 50 percent of the uncommitted portion of tax credits for
4 any previous year without consideration to the county in which a
5 project is located; and (ii) after the completion of the sixth year of
6 the ~~【seven-year】~~ nine-year period, the authority may deploy all
7 available tax credits, including the uncommitted portion of the
8 annual limitation for any previous year, without consideration to the
9 county in which a project is located;

10 (g) except as provided in subparagraph (j) of this paragraph, for
11 tax credits awarded for transformative projects under the "New
12 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
13 c.156 (C.34:1B-322 through C.34:1B-335), the total value of tax
14 credits awarded during the ~~【seven-year】~~ nine-year period shall not
15 exceed \$2.5 billion. The total value of tax credits awarded for
16 transformative projects in a given year shall not be subject to an
17 annual limitation, except that the total value of tax credits awarded
18 to any transformative project shall not exceed ~~【\$350】~~ \$400 million;

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

29 (i) beginning in fiscal year 2025, from the tax credits made
30 available, pursuant to subparagraph (f) of this paragraph, to the
31 "New Jersey Aspire Program Act," sections 54 through 67 of
32 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
33 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
34 (C.34:1B-336 et al.), not including tax credits awarded for
35 transformative projects, additional amounts shall be made available
36 for New Jersey studio partners and New Jersey film-lease partners
37 pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and
38 C.54A:4-12b); and

39 (j) beginning in fiscal year 2024, from the tax credits made
40 available, pursuant to subparagraph (f) of this paragraph, to the
41 "New Jersey Aspire Program Act," sections 54 through 67 of
42 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and the
43 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
44 (C.34:1B-336 et al.), not including tax credits awarded for
45 transformative projects, an amount not to exceed \$500,000,000 may
46 be annually transferred for the award to transformative projects
47 under the "New Jersey Aspire Program Act," sections 54 through 67

1 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), provided
2 that: (i) the remaining allocation of tax credits otherwise available
3 for transformative projects, pursuant to subparagraph (g) of this
4 paragraph, is less than \$1,000,000,000; and (ii) the authority board
5 determines that the transfer of tax credits is warranted based on
6 such criteria as the authority deems appropriate, which may include
7 the criteria set forth in paragraph (2) of this subsection. If a transfer
8 of tax credits is made pursuant to this subparagraph, the authority
9 shall award no greater than 65 percent of the tax credits transferred
10 pursuant to this subparagraph to transformative projects located in
11 the northern counties of the State and no greater than 35 percent of
12 the tax credits transferred pursuant to this subparagraph to
13 transformative projects located in the southern counties of the State.

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

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

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

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

29 (iv) opportunities for project applications to strengthen or protect
30 the competitiveness of the state under the prevailing market
31 conditions;

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

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

38 (vii) increased development proximate to mass transit facilities;

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

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

1 of the annual limitation for any previous year be deployed after the
2 conclusion of the ~~seven-year~~ nine-year period.

3 (cf: P.L.2021, c.160, s.47)

4

5 ~~12.~~ 14.¹ (New section) a. (1) Except as otherwise provided
6 in subsection b. of this section, all program applications completed
7 after the effective date of P.L. , c. (C.) (pending before the
8 Legislature as this bill) shall be subject to the “New Jersey Aspire
9 Program Act,” sections 54 through 67 of P.L.2020, c.156
10 (C.34:1B-322 through C.34:1B-335), as amended as supplemented
11 by P.L. , c. (C.) (pending before the Legislature as this
12 bill), including the rules and regulations adopted pursuant to
13 subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-335).

14 (2) Except as otherwise provided in subsection b. of this section,
15 all program applications completed on or before the effective date
16 of P.L. , c. (C.) (pending before the Legislature as this
17 bill) shall be subject to the provisions of the “New Jersey Aspire
18 Program Act,” sections 54 through 67 of P.L.2020, c.156
19 (C.34:1B-322 through C.34:1B-335), as such provisions remained
20 in effect immediately before the effective date of P.L. ,
21 c. (C.) (pending before the Legislature as this bill), including
22 the rules and regulations adopted pursuant to subsection a. of
23 section 67 of P.L.2020, c.156 (C.34:1B-335).

24 b. Notwithstanding any provision of P.L.2020, c.156
25 (C.34:1B-269 et al.) to the contrary, if a completed application for a
26 residential project is submitted to the authority on or before the
27 121st calendar day next following effective date of P.L. ,
28 c. (C.) (pending before the Legislature as this bill), the
29 applicant for the residential project has received all applicable
30 approvals pursuant to the “Municipal Land Use Law,” P.L.1975,
31 c.291 (C.40:55D-1 et seq.) on or before the 121st calendar day next
32 following the effective date of P.L. , c. (C.) (pending
33 before the Legislature as this bill), and the applicant submits written
34 notice to the authority, before the authority’s approval or denial of
35 the application, electing for the application to be governed under
36 the provisions of this subsection, then the residential units
37 constructed for occupancy by low- and moderate-income
38 households within the residential project shall not be subject to the
39 affordability controls adopted by the authority, in consultation with
40 the agency, pursuant to paragraph (2) of subsection a. of section 56
41 of P.L.2020, c.156 (C.34:1B-324) and subsection b. of section 67 of
42 P.L.2020, c.156 (C.34:1B-335). In this event, the application for
43 the residential project shall be reviewed, approved, and
44 administered in accordance with the provisions of the “New Jersey
45 Aspire Program Act,” sections 54 through 67 of P.L.2020, c.156
46 (C.34:1B-322 through C.34:1B-335), as such provisions remained
47 in effect immediately before the effective date of P.L. ,
48 c. (C.) (pending before the Legislature as this bill), including

1 the rules and regulations adopted pursuant to subsection a. of
2 section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
3 application shall be subject to:

4 (1) the determination of a reasonable and appropriate return on
5 investment, as defined in section 55 of P.L.2020, c.156
6 (C.34:1B-323), as amended by P.L. , c. (pending before the
7 Legislature as this bill); and

8 (2) the limitation on tax credit awards set forth in subsection b.
9 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
10 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
11 amended by P.L. , c. (pending before the Legislature as this
12 bill).

13
14 ¹**13.** 15.¹ (New section) If an applicant has submitted a
15 completed program application that is pending approval by the
16 authority on the effective date of P.L. , c. (C.) (pending
17 before the Legislature as this bill), the applicant may withdraw the
18 application at any time before the authority approves or denies the
19 application. If the applicant withdraws the application, the
20 authority shall return all application fees paid by the applicant, and
21 the withdrawal shall not serve to prejudice the consideration of any
22 program application submitted by the applicant thereafter.

23
24 ¹**14.** 16.¹ This act shall take effect immediately.

25
26
27 _____
28
29 Revises various provisions of “New Jersey Economic Recovery
30 Act of 2020,” including revisions to New Jersey Aspire Program.

SENATE, No. 4023

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 26, 2023

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Revises various changes to “New Jersey Economic Recovery Act of 2020,” including revisions to New Jersey Aspire Program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain economic development programs and
2 amending and supplementing P.L.2020, c.156.

3

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

6

7 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
8 read as follows:

9 55. As used in sections 54 through 67 of P.L.2020, c.156
10 (C.34:1B-322 through C.34:1B-335):

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

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

16 "Aviation district" means all areas within the boundaries of the
17 Atlantic City International Airport, established pursuant to section
18 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
19 Administration William J. Hughes Technical Center and the area
20 within a one-mile radius of the outermost boundary of the Atlantic
21 City International Airport and the Federal Aviation Administration
22 William J. Hughes Technical Center.

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

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

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

40 "Collaborative workspace" means coworking, accelerator,
41 incubator, or other shared working environments that promote
42 collaboration, interaction, socialization, and coordination among
43 tenants through the clustering of multiple businesses or individuals.
44 For this purpose, the collaborative workspace shall be the greater
45 of: 2,500 of dedicated square feet or 10 percent of the total property

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.

1 on which the redevelopment project is situated. The collaborative
2 workspace shall include a community manager, be focused on
3 collaboration among the community members, and include
4 regularly scheduled education events for the community members.
5 The collaborative workspace shall also include a physical open
6 space that supports the engagement of its community members.

7 "Commercial project" means a redevelopment project, which is
8 predominantly commercial and, if located in a government-
9 restricted municipality, contains [100,000] 25,000 or more square
10 feet, or if located in any other municipality, contains 50,000 or
11 more square feet of office and retail space, industrial space, or film
12 studios, professional stages, television studios, recording studios,
13 screening rooms, or other infrastructure for film production, [for
14 purchase or lease] and may include a parking component. The term

15 “commercial project” includes a redevelopment project comprised
16 solely of a health care or health services center, which contains not
17 less than 10,000 square feet devoted to health care or health
18 services, and which may include a parking component.

19 "Developer" means a person who enters or proposes to enter into
20 an incentive award agreement pursuant to the provisions of section
21 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
22 a lender that completes a redevelopment project, operates a
23 redevelopment project, or completes and operates a redevelopment
24 project.

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

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

36 "Economic development incentive" means a financial incentive,
37 awarded by the authority, or agreed to between the authority and a
38 business or person, for the purpose of stimulating economic
39 development or redevelopment in New Jersey, including, but not
40 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
41 credit, or other tax expenditure.

42 "Eligibility period" means the period not to exceed 15 years for a
43 commercial or mixed-use project or the period not to exceed 10
44 years for a residential project specified in an incentive award
45 agreement during which a developer may claim a tax credit under
46 the program, as such period shall be determined by the authority
47 pursuant to subsection b. of section 60 of P.L.2020,
48 c.156 (C.34:1B-328).

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

7 "Environmental remediation costs" means any costs incurred by
8 a developer in the completion of any actions necessary to
9 investigate, clean up, or respond to a known, suspected, or
10 threatened discharge of contaminants, including, as necessary, the
11 preliminary assessment, site investigation, remedial investigation,
12 and remedial action, pursuant to sections 23 through 43 and section
13 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

14 "Food delivery source" means access to nutritious foods, such as
15 fresh fruits and vegetables, through grocery operators, including,
16 but not limited to a full-service supermarket or grocery store, and
17 other healthy food retailers of at least 16,000 square feet, including,
18 but not limited to, a prepared food establishment selling primarily
19 nutritious ready-to-serve meals.

20 "Food desert community" means a physically contiguous area in
21 the State in which residents have limited access to nutritious foods,
22 such as fresh fruits and vegetables, and that has been designated as
23 a food desert community pursuant to subsection b. of section 38 of
24 P.L.2020, c.156 (C.34:1B-306).

25 "Government-restricted municipality" means a municipality in
26 this State with a municipal revitalization index distress score of at
27 least 75, that met the criteria for designation as an urban aid
28 municipality in the 2019 State fiscal year, and that, on the effective
29 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
30 restrictions imposed pursuant to the "Municipal Stabilization and
31 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
32 restricted in its ability to levy property taxes on property in that
33 municipality as a result of the State of New Jersey owning or
34 controlling property representing at least 25 percent of the total land
35 area of the municipality or as a result of the federal government of
36 the United States owning or controlling at least 50 acres of the total
37 land area of the municipality, which is dedicated as a national
38 natural landmark.

39 "Health care or health services center" means an establishment
40 that consists of not less than 10,000 square feet devoted to health
41 care or health services, where patients are admitted for or seek
42 examination and treatment by one or more physicians, dentists,
43 psychologists, or other medical practitioners, and which is located
44 in a municipality that lacks adequate access to health care services,
45 as annually determined by the Commissioner of Health.

46 "Hospitality establishment" means a hotel, motel, or any
47 business, however organized, that sells food, beverages, or both for
48 consumption by patrons on the premises.

1 "Incentive area" means an aviation district **[,]** ; a port district **[,**
2 **or]** ; an area designated pursuant to the "State Planning Act,"
3 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
4 (Metropolitan), Planning Area 2 (Suburban), or a Designated
5 Center, provided an area designated as Planning Area 2 (Suburban)
6 or a Designated Center shall be located within a one-half mile
7 radius of the mid-point, with bicycle and pedestrian connectivity, of
8 a New Jersey Transit Corporation, Port Authority Transit
9 Corporation, or Port Authority Trans-Hudson Corporation rail, bus,
10 or ferry station, including all light rail stations, or a high frequency
11 bus stop as certified by the New Jersey Transit Corporation; and an
12 area designated as a brownfield site pursuant to the "Brownfield and
13 Contaminated Site Remediation Act," sections 23 through 43 and
14 section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.), provided that
15 any portion of the brownfield site is located in an area that
16 otherwise qualifies as an incentive area.

17 "Incentive award" means an award of tax credits to reimburse a
18 developer for all or a portion of the project financing gap of a
19 redevelopment project pursuant to the provisions of sections 54
20 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

21 "Incentive award agreement" means the contract executed
22 between a developer and the authority pursuant to section 60 of
23 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
24 conditions under which the developer may receive the incentive
25 awards authorized pursuant to the provisions of sections 54 through
26 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

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

34 "Individuals with special needs" means individuals with mental
35 illness, individuals with physical or developmental disabilities, and
36 individuals in other emerging special needs groups identified by the
37 authority, based on guidelines established for the administration of
38 the Special Needs Housing Trust Fund established pursuant to
39 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
40 consultation with other State agencies.

41 "Labor harmony agreement" means an agreement between a
42 business that serves as the owner or operator of a retail
43 establishment, hospitality establishment, or distribution center and
44 one or more labor organizations, which requires, for the duration of
45 the agreement: that any participating labor organization and its
46 members agree to refrain from picketing, work stoppages, boycotts,
47 or other economic interference against the business; and that the
48 business agrees to maintain a neutral posture with respect to efforts

1 of any participating labor organization to represent employees at an
2 establishment or other unit in the retail establishment, hospitality
3 establishment, or distribution center, agrees to permit the labor
4 organization to have access to the employees, and agrees to
5 guarantee to the labor organization the right to obtain recognition as
6 the exclusive collective bargaining representatives of the employees
7 in an establishment or unit at the retail establishment, hospitality
8 establishment, or distribution center by demonstrating to the New
9 Jersey State Board of Mediation, Division of Private Employment
10 Dispute Settlement, or a mutually agreed-upon, neutral, third-party
11 that a majority of workers in the unit have shown their preference
12 for the labor organization to be their representative by signing
13 authorization cards indicating that preference. The labor
14 organization or organizations shall be from a list of labor
15 organizations which have requested to be on the list and which the
16 Commissioner of Labor and Workforce Development has
17 determined represent substantial numbers of retail establishment,
18 hospitality establishment, or distribution center employees in the
19 State.

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

27 "Major cultural institution" means a public or nonprofit
28 institution, not including an institution of higher education, within
29 this State that engages in the cultural, intellectual, scientific,
30 environmental, educational, or artistic enrichment of the people of
31 this State, and which institution is designated by the board as a
32 major cultural institution.

33 "Major rail station" means a railroad station that is located within
34 a qualified incentive area and that provides to the public access to a
35 minimum of six rail passenger service lines operated by the New
36 Jersey Transit Corporation.

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

44 "Moderate-income housing" means housing affordable according
45 to federal Department of Housing and Urban Development or other
46 recognized standards for home ownership and rental costs and
47 occupied or reserved for occupancy by households with a gross
48 household income equal to more than 50 percent, but less than 80

1 percent, of the median gross household income for households of
2 the same size within the housing region in which the housing is
3 located.

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

9 "Port district" means the portions of a qualified incentive area
10 that are located within:

11 a. the "Port of New York District" of the Port Authority of
12 New York and New Jersey, as defined in Article II of the Compact
13 Between the States of New York and New Jersey of 1921; or

14 b. a 15-mile radius of the outermost boundary of each marine
15 terminal facility established, acquired, constructed, rehabilitated, or
16 improved by the South Jersey Port District established pursuant to
17 "The South Jersey Port Corporation Act," P.L.1968, c.60
18 (C.12:11A-1 et seq.).

19 "Program" means the New Jersey Aspire Program established by
20 section 56 of P.L.2020, c.156 (C.34:1B-324).

21 "Project cost" means the costs incurred in connection with a
22 redevelopment project by a developer until the issuance of a
23 permanent certificate of occupancy, or until such other time
24 specified by the authority, for a specific investment or
25 improvement, including the costs relating to lands, except the cost
26 of acquiring such lands, buildings, improvements, real or personal
27 property, or any interest therein, including leases discounted to
28 present value, including lands under water, riparian rights, space
29 rights, and air rights acquired, owned, developed or redeveloped,
30 constructed, reconstructed, rehabilitated, or improved, any
31 environmental remediation costs, plus costs not directly related to
32 construction, including capitalized interest paid to third parties, of
33 an amount not to exceed 20 percent of the total costs and the cost of
34 infrastructure improvements, including ancillary infrastructure
35 projects. When 100 percent of the residential units constructed in a
36 residential project are reserved for occupancy by low- and
37 moderate-income households, the term "project cost" shall also
38 include the developer fees paid before acquiring permanent
39 financing, as well as the deferred developer fees approved pursuant
40 to the rules established by the agency. The fees associated with the
41 application or administration of a grant under sections 54 through
42 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall not
43 constitute a project cost.

44 "Project financing gap" means the part of the total project cost,
45 including reasonable and appropriate return on investment, that
46 remains to be financed after all other sources of capital have been
47 accounted for, including, but not limited to developer contributed
48 capital, which shall not be less than 20 percent of the total project

1 cost, and investor or financial entity capital or loans for which the
2 developer, after making all good faith efforts to raise additional
3 capital, certifies that additional capital cannot be raised from other
4 sources on a non-recourse basis; provided, however, that for a
5 redevelopment project located in a government-restricted
6 municipality, the developer contributed capital shall not be less than
7 10 percent of the total project cost. Developer contributed capital
8 may consist of cash, deferred development fees, costs for project
9 feasibility incurred within the 12 months prior to application,
10 property value less any mortgages when the developer owns the
11 project site, and any other investment by the developer in the
12 project deemed acceptable by the authority, as provided by
13 regulations promulgated by the authority. Property value shall be
14 valued at the lesser of: (i) the purchase price, provided the property
15 was purchased pursuant to an arm's length transaction within 12
16 months of application; or (ii) the value as determined by a current
17 appraisal.

18 "Project labor agreement" means a form of pre-hire collective
19 bargaining agreement covering terms and conditions of a specific
20 project that satisfies the requirements set forth in section 5 of
21 P.L.2002, c.44 (C.52:38-5).

22 "Qualified incentive tract" means (i) a population census tract
23 having a poverty rate of 20 percent or more; or (ii) a census tract in
24 which the median family income for the census tract does not
25 exceed 80 percent of the greater of the Statewide median family
26 income or the median family income of the metropolitan statistical
27 area in which the census tract is situated.

28 "Quality childcare facility" is a child care center licensed by the
29 Department of Children and Families or a registered family child
30 care home with the Department of Human Services, operating
31 continuously, which has not been subject to an enforcement action,
32 and which has and maintains a licensed capacity for children age 13
33 years or younger who attend for less than 24 hours a day.

34 "Reasonable and appropriate return on investment" means the
35 discount rate at which the present value of the future cash flows of
36 an investment equals the cost of the investment. In determining the
37 "reasonable and appropriate return on investment," an investment
38 shall not include any federal, State, or local tax credits. For a
39 residential project that utilizes federal low-income housing tax
40 credits awarded by the agency, the "reasonable and appropriate
41 return on investment" shall be based on the approval of deferred
42 developer fees pursuant to the rules established by the agency. In
43 the event that a residential project, which utilizes federal low-
44 income housing tax credits awarded by the agency, generates
45 returns on equity other than federal or local grants or proceeds from
46 the sale of federal or local tax credits, the "reasonable and
47 appropriate return on investment" shall be based on both the
48 discount rate at which the present value of the future cash flows of

1 an investment equal the cost of the investment for the entire project,
2 and when evaluating only the units financed with federal low-
3 income housing tax credits awarded by the agency, the approval of
4 deferred developer fees pursuant to the rules established by the
5 agency.

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

15 "Residential project" means a redevelopment project that is
16 predominantly residential, intended for multi-family residency, and
17 may include a parking component.

18 "SDA district" means an SDA district as defined in section 3 of
19 P.L.2000, c.72 (C.18A:7G-3).

20 "SDA municipality" means a municipality in which an SDA
21 district is situated.

22 "Technology startup company" means a for-profit business that
23 has been in operation fewer than seven years at the time that it
24 initially occupies or expands in a qualified business facility and is
25 developing or possesses a proprietary technology or business
26 method of a high technology or life science-related product,
27 process, or service, which proprietary technology or business
28 method the business intends to move to commercialization. The
29 business shall be deemed to have begun operation on the date that
30 the business first hired at least one employee in a full-time position.

31 "Total project cost" means the costs incurred in connection with
32 the redevelopment project by the developer until the issuance of a
33 permanent certificate of occupancy, or upon such other event
34 evidencing project completion as set forth in the incentive grant
35 agreement, for a specific investment or improvement.

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

44 "Transit hub" means an urban transit hub, as defined in section 2
45 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
46 municipality, as defined in section 2 of P.L.2007, c.346
47 (C.34:1B-208) and **【also】** is located within a qualified incentive
48 area.

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

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

14 (cf: P.L.2021, c.160, s.22)

15
16 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
17 read as follows:

18 56. a. (1) The New Jersey Aspire Program is hereby established
19 as a program under the jurisdiction of the New Jersey Economic
20 Development Authority. The authority shall administer the
21 program to encourage redevelopment projects through the provision
22 of incentive awards to reimburse developers for certain project
23 financing gap costs. The board may approve the award of an
24 incentive award to a developer upon application to the authority
25 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
26 C.34:1B-327). The value of all tax credits approved by the
27 authority pursuant to sections 54 through 67 of P.L.2020, c.156
28 (C.34:1B-322 through C.34:1B-335) **[,]** shall be subject to the
29 limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

30 (2) The authority, in consultation with the agency, shall adopt
31 rules and regulations, pursuant to subsection b. of section 67 of
32 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
33 administration of the affordability controls that shall apply to the
34 residential units constructed for occupancy by low- and moderate-
35 income households under the program, including, but not limited to,
36 residential units within residential projects that utilize federal low-
37 income housing tax credits awarded by the agency.
38 Notwithstanding any provision of law or regulation to the contrary,
39 the affordability controls shall, at a minimum, be consistent with the
40 affordability controls established in the rules and regulations
41 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
42 (C.52:27D-301 et al.), as in effect immediately prior to the effective
43 date of P.L. , c. (C.) (pending before the Legislature as this
44 bill), including, but not limited to, any requirements concerning the
45 bedroom distributions, affordability averages, affirmative
46 marketing, and long-term deed restrictions of residential units
47 constructed for occupancy by low- and moderate-income
48 households.

1 b. The chief executive officer of the authority shall designate
2 one staff member per government-restricted municipality in order to
3 keep the municipality informed on activities within the municipality
4 and to coordinate economic development initiatives.

5 (cf: P.L.2020, c.156, s.56)

6
7 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
8 read as follows:

9 57. a. Prior to March 1, **[2027]** 2029, a developer shall be
10 eligible to receive an incentive award for a redevelopment project
11 only if the developer demonstrates to the authority at the time of
12 application that:

13 (1) without the incentive award, the redevelopment project is
14 not economically feasible;

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

18 (3) the redevelopment project, except a film studio, professional
19 stage, television studio, recording studio, screening room, or other
20 infrastructure used for film production, is located in the incentive
21 area;

22 (4) except for demolition and site remediation activities, the
23 developer has not commenced any construction at the site of the
24 redevelopment project prior to submitting an application, unless the
25 authority determines that the redevelopment project would not be
26 completed otherwise or, in the event the redevelopment project is to
27 be undertaken in phases, the requested incentive award is limited to
28 only phases for which construction has not yet commenced;

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

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

34 (7) (a) during the eligibility period, each worker employed to
35 perform construction work **[or building services work]** at the
36 redevelopment project shall be paid not less than the prevailing
37 wage rate for the worker's craft or trade, as determined by the
38 Commissioner of Labor and Workforce Development pursuant to
39 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
40 (C.34:11-56.58 et seq.). **[. In the event]** ; or

41 (b) during the eligibility period, each worker employed to
42 perform building services work at the redevelopment project shall
43 be paid not less than the prevailing wage rate for the worker's craft
44 or trade, as determined by the Commissioner of Labor and
45 Workforce Development pursuant to P.L.1963, c.150
46 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.),
47 except that: (i) this requirement shall not apply to workers
48 employed to perform building services work by a tenant that has a

1 leasehold interest in a redevelopment project, which leasehold
2 interest encompasses less than 5,000 square feet of space within the
3 project; and (ii) if a redevelopment project is undertaken by a tenant
4 and the tenant has a leasehold of more than 55 percent of space in
5 the building owned or controlled by the developer, **【the】** this
6 requirement **【that each worker employed to perform building**
7 **service work at the building be paid not less than the prevailing**
8 **wage】** shall apply to the entire building, except as otherwise
9 provided in sub-subparagraph (i) of this subparagraph;

10 (8) (a) the redevelopment project shall be completed, and the
11 developer shall be issued a certificate of occupancy for the
12 redevelopment project facilities by the applicable enforcing agency
13 within four years of executing the incentive award agreement, or in
14 the case of a redevelopment project with a project cost in excess of
15 \$50,000,000, the incentive phase agreement corresponding to the
16 redevelopment project; or

17 (b) in the discretion of the authority, a redevelopment project
18 with a project cost in excess of \$50,000,000, and that is authorized
19 to be completed in phases, may be allowed no more than six years
20 from the date on which the incentive award agreement is executed
21 to be issued a certificate of occupancy by the applicable
22 enforcement agency;

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

28 (10) the developer is not more than 24 months in arrears at the
29 time of application.

30 b. In addition to the requirements set forth in subsection a. of
31 this section, for a commercial project to qualify for an incentive
32 award the developer shall demonstrate that the developer shall
33 contribute capital of at least 20 percent of the total project cost,
34 except that if a redevelopment project is located in a government-
35 restricted municipality, the developer shall contribute capital of at
36 least 10 percent of the total project cost.

37 c. In addition to the requirements set forth in subsection a. of
38 this section, for a residential project or a commercial project
39 comprised solely of a health care or health service center to qualify
40 for an incentive award, the residential project or health care or
41 health service center shall:

42 (1) have a total project cost of at least \$17,500,000, if the
43 project is located in a municipality with a population greater than
44 200,000 according to the latest federal decennial census;

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

1 (3) have a total project cost of at least \$5,000,000 if the project
2 is in a qualified incentive tract or government-restricted
3 municipality.

4 d. In addition to the requirements set forth in subsections a. and
5 c. of this section, for a residential project consisting of newly-
6 constructed residential units to qualify for an incentive award, the
7 developer shall reserve at least 20 percent of the residential units
8 constructed for occupancy by low- and moderate-income
9 households with affordability controls as **required under the "Fair
10 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)** **adopted by**
11 **the authority, in consultation with the agency, in accordance with**
12 **paragraph (2) of subsection a. of section 56 of P.L.2020, c.156**
13 **(C.34:1B-324), except that a residential project receiving a federal**
14 **historic rehabilitation tax credit pursuant to section 47 of the federal**
15 **Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit**
16 **pursuant to the "Historic Property Reinvestment Act," sections 2**
17 **through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),**
18 **shall be exempt from the affordability controls related to bedroom**
19 **distribution.**

20 e. Prior to the board considering an application submitted by a
21 developer, the authority shall confirm with the Department of Labor
22 and Workforce Development, the Department of Environmental
23 Protection, and the Department of the Treasury whether the
24 developer is in substantial good standing with the respective
25 department, or has entered into an agreement with the respective
26 department that includes a practical corrective action plan for the
27 developer. The developer shall certify that any contractors or
28 subcontractors that will perform work at the redevelopment project:
29 (1) are registered as required by "The Public Works Contractor
30 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
31 not been debarred by the Department of Labor and Workforce
32 Development from engaging in or bidding on Public Works
33 Contracts in the State; and (3) possess a tax clearance certificate
34 issued by the Division of Taxation in the Department of the
35 Treasury. The authority may also contract with an independent
36 third party to perform a background check on the developer.

37 (cf: P.L.2021, c.160, s.23)

38

39 4. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to
40 read as follows:

41 58. a. Prior to March 1, **2027** 2029, for redevelopment projects
42 eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325) for
43 which a developer is seeking an incentive award for the
44 redevelopment project, the developer shall submit an application to
45 the authority and, in the case of a residential project, shall submit an
46 application to the authority and the agency, in a form and manner
47 prescribed in regulations adopted by the authority **], in consultation**
48 **with the agency,]** pursuant to **[the provisions of the**

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.)] section 67 of P.L.2020, c.156 (C.34:1B-335). The authority
3 shall accept applications for incentive awards during the grant
4 periods established pursuant to section 59 of P.L.2020, c.156
5 (C.34:1B-327).

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

11 c. The authority shall review the project cost, evaluate and
12 validate the project financing gap estimated by the developer, and
13 conduct a State fiscal impact analysis to ensure that the overall
14 public assistance provided to the project will result in a net positive
15 benefit to the State, provided that the net benefit analysis shall not
16 apply to capital investment for a food delivery source; a health care
17 or health services center [with a minimum of 10,000 square feet of
18 space devoted to health care or health services that is located in a
19 municipality with a Municipal Revitalization Index distress score of
20 at least 50 lacking adequate access, as determined by the
21 Commissioner of Health]; or a residential project. In determining
22 whether a project will result in a net positive benefit to the State,
23 the authority shall not consider the value of any taxes exempted,
24 abated, rebated, or retained under the "Five-Year Exemption and
25 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
26 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.),
27 the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
28 (C.52:27H-60 et seq.), or any other law that has the effect of
29 lowering or eliminating the developer's State or local tax liability.
30 The determination made pursuant to this subsection shall be based
31 on the potential tax liability of the developer without regard for
32 potential tax losses if the developer were to locate in another state.
33 The authority shall assess the cost of these reviews to the applicant.
34 A developer shall pay to the authority the full amount of the direct
35 costs of an analysis concerning the developer's application for a tax
36 credit that a third party retained by the authority performs, if the
37 authority deems such retention to be necessary. The authority shall
38 evaluate the net economic benefits on a present value basis under
39 which the requested tax credit allocation amount is discounted to
40 present value at the same discount rate as the projected benefits
41 from the implementation of the proposed redevelopment project for
42 which an award of tax credits is being sought.

43 d. (1) For a redevelopment project subject to the requirement
44 of subsection c. of this section to be eligible for any tax credits
45 under the program, a developer shall demonstrate to the authority
46 that the award of tax credits will yield a net positive benefit to the
47 State equaling an amount determined by the authority through
48 regulation that exceeds the requested tax credit amount. The

1 developer shall certify, under the penalty of perjury, that all
2 documents submitted, and factual assertions made, to the authority
3 to demonstrate that the award of tax credits will yield a net positive
4 benefit to the State in accordance with this subsection are true and
5 accurate at the time of submission.

6 (2) A redevelopment project located in a government-restricted
7 municipality shall yield a net positive benefit to the State that
8 exceeds the requested tax credit amount, but the net benefit
9 requirement set by the authority for such redevelopment projects
10 may be up to 35 percentage points lower than the net benefit
11 requirement set by the authority for all other eligible redevelopment
12 projects.

13 (3) A commercial project that contains 50,000 or more square
14 feet of space devoted to research or technology focused incubator
15 and conferencing facilities for one or more institutions of higher
16 education or non-profit organizations, and which has a total project
17 cost of not less than \$50 million, shall yield a net positive benefit to
18 the State that exceeds the requested tax credit amount, but the net
19 benefit requirement set by the authority for such redevelopment
20 projects may be up to 35 percentage points lower than the net
21 benefit requirement set by the authority for all other eligible
22 redevelopment projects.

23 (4) A redevelopment project that is predominantly commercial
24 and that receives a federal historic rehabilitation tax credit pursuant
25 to section 47 of the federal Internal Revenue Code of 1986, 26
26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property
27 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156
28 (C.34:1B-270 through C.34:1B-276), shall yield a net positive
29 benefit to the State that exceeds the requested tax credit amount, but
30 the net benefit requirement set by the authority for such
31 redevelopment projects may be up to 35 percentage points lower
32 than the net benefit requirement set by the authority for all other
33 eligible redevelopment projects.

34 (5) A redevelopment project that is undertaken by a major
35 cultural institution to renovate existing space or expand services
36 into additional space, and in which the major cultural institution
37 realizes all returns from the redevelopment project, shall yield a net
38 positive benefit to the State that exceeds the requested tax credit
39 amount, but the net benefit requirement set by the authority for such
40 redevelopment projects may be lower than the net benefit
41 requirement set by the authority for all other eligible redevelopment
42 projects.

43 e. If at any time during the eligibility period the authority
44 determines that the developer made a material misrepresentation on
45 the developer's application, the developer shall forfeit the incentive
46 award.

47 f. If circumstances require a developer to amend its application
48 to the authority, then the developer, or an authorized agent of the

1 developer, shall certify to the authority that the information
2 provided in its amended application is true under the penalty of
3 perjury.

4 (cf: P.L.2021, c.160, s.24)

5

6 5. Section 59 of P.L.2020, c.156 (C.34:1B-327) is amended to
7 read as follows:

8 59. a. Prior to March 1, ~~2027~~ 2029, for redevelopment projects
9 eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325),
10 the authority shall award incentive awards based on the order in
11 which complete, qualifying applications were received by the
12 authority. If a developer intends to apply to both the authority and
13 the agency for subsidies, the developer shall notify the agency
14 simultaneously with any application made to the authority. The
15 authority shall transmit its grant determination for such residential
16 projects to the agency along with any information developed by the
17 authority and confirmation of the authority's intent to provide an
18 incentive award or award to the project. Approval of an application
19 by the agency shall be the final determination required for an
20 incentive award for a residential project under this section.

21 b. Prior to allocating an incentive award to a redevelopment
22 project, the authority shall confirm with the Department of Labor
23 and Workforce Development, the Department of Environmental
24 Protection, and the Department of the Treasury that the developer is
25 in substantial good standing with the respective department, or a
26 developer not in substantial good standing with each department has
27 entered into an agreement with the respective department that
28 includes a practical corrective action plan for the developer, and
29 that the developer shall confirm that each contractor or
30 subcontractor performing work at the redevelopment project: (1) is
31 registered as required by "The Public Works Contractor
32 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
33 not been debarred by the Department of Labor and Workforce
34 Development from engaging in or bidding on Public Works
35 Contracts in the State; and (3) possesses a tax clearance certificate
36 issued by the Division of Taxation in the Department of the
37 Treasury. The authority may also contract with an independent
38 third party to perform a background check on the developer.
39 Provided that the developer, and all contractors and subcontractors,
40 are in compliance with this subsection, the authority shall allocate
41 incentive awards to redevelopment projects according to the
42 redevelopment project's score and until either the available
43 incentive awards are exhausted or all redevelopment projects
44 obtaining the minimum score receive an incentive award, whichever
45 occurs first. If insufficient funding exists to fully fund all eligible
46 projects, a project may be offered partial funding.

47 (cf: P.L.2021, c.160, s.25)

1 6. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
2 read as follows:

3 60. a. (1) Following approval and selection of an application
4 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
5 C.34:1B-327), the authority shall enter into an incentive award
6 agreement with the developer. The chief executive officer of the
7 authority shall negotiate the terms and conditions of the incentive
8 award agreement on behalf of the State.

9 (2) For a phased project, the incentive phase agreement shall set
10 forth, for each phase of the project and for the total project, the
11 capital investment requirements and the time periods in which each
12 phase of the project shall be commenced and completed. The
13 awarding of tax credits shall be conditioned on the developer's
14 compliance with the requirements of the agreement. A
15 redevelopment project may be completed in phases in accordance
16 with rules adopted by the authority if the redevelopment project has
17 a total project cost in excess of \$50,000,000.

18 b. An incentive award agreement shall specify the amount of
19 the incentive award the authority shall award to the developer and
20 the duration of the eligibility period **【, which】**. The duration of the
21 eligibility period shall not exceed 15 years for a commercial or
22 mixed-use project and shall not exceed 10 years for a residential
23 project, except that to reduce the total value of tax credits needed to
24 reimburse a developer for all or part of the project financing gap of
25 a redevelopment project, the authority may, in its discretion,
26 approve a duration for the eligibility period that is shorter than the
27 applicable maximum periods. The incentive award agreement shall
28 provide an estimated date of completion and include a requirement
29 for periodic progress reports, including the submittal of executed
30 financing commitments and documents that evidence site control.
31 If the authority does not receive periodic progress reports, or if the
32 progress reports demonstrate unsatisfactory progress, then the
33 authority may rescind the incentive award. If the authority rescinds
34 an incentive award in the same calendar year in which the authority
35 approved the incentive award, then the authority may assign the
36 incentive award to another applicant. The incentive award
37 agreement may also provide for a verification of the financing gap
38 at the time the developer provides executed financing commitments
39 to the authority and a verification of the developer's projected cash
40 flow at the time of certification that the project is completed.

41 c. To ensure the protection of taxpayer money, if the authority
42 determines at project certification that the actual capital financing
43 approach utilized by the project has resulted in a financing gap that
44 is smaller than the financing gap determined at board approval, the
45 authority shall reduce the amount of the tax credit or accept
46 payment from the developer on a pro rata basis. If there is no
47 project financing gap due to the actual capital financing approach
48 utilized by the project, then the developer shall forfeit the incentive

1 award. At the end of the seventh year of the eligibility period, the
2 authority shall evaluate the developer's rate of return on investment
3 and compare that rate of return on investment to the reasonable and
4 appropriate rate of return at the time of board approval. If the
5 actual rate of return on investment exceeds the reasonable and
6 appropriate rate of return on investment at the time of board
7 approval by more than 15 percent, the authority shall require the
8 developer to pay up to 20 percent of the amount in excess of the
9 reasonable and appropriate rate of return on investment. The
10 authority shall require an escrow account to be held by the authority
11 until the end of the eligibility period. Following the final year of
12 the eligibility period, the authority shall determine if the developer's
13 rate of return exceeded the reasonable and appropriate rate of return
14 determined at board approval. If the final rate of return does not
15 exceed the reasonable and appropriate rate of return determined at
16 board approval, the authority shall release to the developer the
17 escrowed funds. If the project final rate of return exceeds the
18 reasonable and appropriate rate of return determined at board
19 approval, the authority shall require the developer to pay up to 20
20 percent of the amount of the excess, which shall include the funds
21 held in escrow, and such funds shall be deposited in the State
22 General Fund.

23 d. The incentive award agreement shall include a requirement
24 that the authority confirm with the Department of Environmental
25 Protection, the Department of Labor and Workforce Development,
26 and the Department of the Treasury that the developer is in
27 substantial good standing with the respective department, or the
28 developer has entered into an agreement with the respective
29 department that includes a practical corrective action for the
30 developer, and the developer shall confirm that each contractor or
31 subcontractor performing work at the redevelopment project: (1) is
32 registered as required by "The Public Works Contractor
33 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
34 not been debarred by the Department of Labor and Workforce
35 Development from engaging in or bidding on Public Works
36 Contracts in the State; and (3) possesses a tax clearance certificate
37 issued by the Division of Taxation in the Department of the
38 Treasury. The incentive award agreement shall also include a
39 provision that the developer shall forfeit the incentive award in any
40 year in which the developer is neither in substantial good standing
41 with each department nor has entered into a practical corrective
42 action. The incentive award agreement shall also require a
43 developer to engage in on-site consultations with the Division of
44 Workplace Safety and Health in the Department of Health.

45 e. (1) Except as provided in paragraph (2) of this subsection, the
46 authority shall not enter into an incentive award agreement for a
47 redevelopment project that includes at least one retail establishment
48 which will have more than 10 employees, at least one distribution

1 center which will have more than 20 employees, or at least one
2 hospitality establishment which will have more than 10 employees,
3 unless the incentive award agreement includes a precondition that
4 any business that serves as the owner or operator of the retail
5 establishment **【or】**, distribution center, or hospitality establishment
6 enters into a labor harmony agreement with a labor organization or
7 cooperating labor organizations which represent retail
8 establishment, hospitality establishment, or distribution center
9 employees in the State.

10 (2) A labor harmony agreement shall be required only if the
11 State has a proprietary interest in the redevelopment project and
12 shall remain in effect for as long as the State acts as a market
13 participant in the redevelopment project. The authority may enter
14 into an incentive award agreement with a developer without the
15 labor harmony agreement required under paragraph (1) of this
16 subsection if the authority determines that the redevelopment
17 project would not be able to go forward if a labor harmony
18 agreement is required. The authority shall support the
19 determination by a written finding, which provides the specific
20 basis for the determination.

21 (3) **【As used in this subsection:**

22 "Hospitality establishment" means a hotel, motel, or any
23 business, however organized, that sells food, beverages, or both for
24 consumption by patrons on the premises.

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

1 center employees in the State.】 (Deleted by amendment, P.L. ,
2 c.) (pending before the Legislature as this bill)

3 f. (1) For a redevelopment project whose total project cost equals
4 or exceeds \$10 million, in addition to the incentive award
5 agreement, a developer shall enter into a community benefits
6 agreement with the authority and the county or municipality in
7 which the redevelopment project is located. The agreement may
8 include, but shall not be limited to, requirements for training,
9 employment, and youth development and free services to
10 underserved communities in and around the community in which
11 the redevelopment project is located. Prior to entering a community
12 benefits agreement, the governing body of the county or
13 municipality in which the redevelopment project is located shall
14 hold at least one public hearing at which the governing body shall
15 hear testimony from residents, community groups, and other
16 stakeholders on the needs of the community that the agreement
17 should address.

18 (2) The community benefits agreement shall provide for the
19 creation of a community advisory committee to oversee the
20 implementation of the agreement, monitor successes, ensure
21 compliance with the terms of the agreement, and produce an annual
22 public report. The community advisory committee created pursuant
23 to this paragraph shall be comprised of representatives of diverse
24 community groups and residents of the county or municipality in
25 which the redevelopment project is located.

26 (3) At the time the developer submits the annual report required
27 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
28 authority, the developer shall certify, under the penalty of perjury,
29 that it is in compliance with the terms of the community benefits
30 agreement. If the developer fails to provide the certification
31 required pursuant to this paragraph or the authority determines that
32 the developer is not in compliance with the terms of the community
33 benefits agreement based on the reports submitted by the
34 community advisory committee pursuant to paragraph (2) of this
35 subsection, then the authority may rescind an award or recapture all
36 or part of any tax credits awarded.

37 (4) **【A】** Notwithstanding any requirement of this subsection to
38 the contrary, a developer shall [not be required to enter into] be
39 considered to have met the requirements of a community benefits
40 agreement pursuant to this subsection if the developer submits to
41 the authority:

42 (a) a copy of either the developer's approval letter from the
43 authority or a redevelopment agreement applicable to the qualified
44 business facility, provided that the approval letter or redevelopment
45 agreement is certified by the municipality in which the
46 redevelopment project is located, and includes provisions that meet
47 or exceed the standards required for a community benefits

1 agreement in this subsection, as determined by the chief executive
2 officer pursuant to rules adopted by the authority; or
3 (b) a resolution adopted by the governing body of the
4 municipality in which the redevelopment project is located, which
5 resolution shall be adopted after at least one public hearing at which
6 the governing body provides an opportunity for residents,
7 community groups, and other stakeholders to testify, and which
8 resolution shall state that the governing body has determined that
9 the redevelopment project will provide economic and social benefits
10 to the community that fulfill the purposes of this subsection, which
11 benefits render a separate community benefit agreement
12 unnecessary, and explain the reasons supporting the governing
13 body's determination.

14 g. A developer shall submit, prior to the first disbursement of
15 tax credits under the incentive award agreement, but no later than
16 six months following project completion, satisfactory evidence of
17 actual project costs, as certified by a certified public accountant,
18 evidence of a temporary certificate of occupancy, or other event
19 evidencing project completion that begins the eligibility period
20 indicated in the incentive award agreement. The developer, or an
21 authorized agent of the developer, shall certify that the information
22 provided pursuant to this subsection is true under the penalty of
23 perjury. Claims, records, or statements submitted by a developer to
24 the authority in order to receive tax credits shall not be considered
25 claims, records, or statements made in connection with State tax
26 laws.

27 h. The incentive award agreement shall include a provision
28 allowing the authority to extend, in individual cases, the deadline
29 for any annual reporting or certification requirement.

30 i. The incentive award agreement shall include one or more
31 provisions, as determined by the authority, concerning the terms
32 and conditions for default and the remedies for the developer of a
33 redevelopment project in the event of default. The incentive award
34 agreement shall not allow the authority to declare a cross-default
35 when the developer of a redevelopment project, including any
36 business affiliate of the developer or any other entity with common
37 principals as the developer, is in default with any other assistance
38 program administered by the authority.

39 (cf: P.L.2021, c.160, s.26)

40

41 7. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
42 read as follows:

43 61. a. Up to the limits established in subsection b. of this section
44 and in accordance with an incentive award agreement, beginning
45 upon the receipt of occupancy permits for any portion of the
46 redevelopment project, or upon any other event evidencing project
47 completion as set forth in the incentive award agreement, a
48 developer shall be allowed a total tax credit that shall not exceed:

1 (1) 70 percent of the total project cost for a redevelopment
2 project that is located in a government-restricted municipality;

3 (2) 60 percent of the total project cost for **the new construction**
4 **of** a residential project that receives a four-percent allocation from
5 the federal Low Income Housing Tax Credit Program administered
6 by the agency **;**

7 (2) 50 percent of the total project cost for a commercial project
8 that is located in a government-restricted municipality;**]** or a
9 redevelopment project that is located in a qualified incentive tract,
10 enhanced area, or a municipality with a Municipal Revitalization
11 Index score of at least 50; or

12 (3) **[45]** 50 percent of the total project cost for any other
13 redevelopment project.

14 b. The value of all tax credits approved by the authority under
15 the program for a redevelopment project phase shall not exceed:

16 (1) **[\$60,000,000]** \$120,000,000 per redevelopment project or
17 phase for a redevelopment project that is located in a government-
18 restricted municipality;

19 (2) \$90,000,000 per redevelopment project or phase for a
20 **[residential]** redevelopment project that is allowed a tax credit
21 under paragraph **[(1)]** (2) of subsection a. of this section **],** or a
22 redevelopment project or phase that is located in a qualified
23 incentive tract, government-restricted municipality, or municipality
24 with a Municipal Revitalization Index distress score of at least 50**];**
25 and

26 **[(2)]** \$42,000,000 (3) \$60,000,000 for any other redevelopment
27 project or phase.

28 (cf: P.L.2021, c.160, s.27)

29

30 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
31 read as follows:

32 65. a. As used in this section, "transformative project" means a
33 redevelopment project; that has a project financing gap **[,] ;** that
34 has a total project cost of at least **[\$100,000,000, and]**
35 \$150,000,000; that includes **[500,000]** 200,000 or more square feet
36 of new or substantially renovated industrial, commercial, or
37 residential space **[or]** for a project located in a government-
38 restricted municipality, that includes 250,000 or more square feet of
39 film studios, professional stages, television studios, recording
40 studios, screening rooms, or other infrastructure for film
41 production, that includes 300,000 or more square feet of new or
42 substantially renovated industrial, commercial, or residential space
43 for a project located in an enhanced area, or that includes 500,000
44 or more square feet of new or substantially renovated industrial,
45 commercial, or residential space for any other project; and [which]
46 , for a commercial project, that is of special economic importance as
47 measured by the level of new jobs, new capital investment,

1 opportunities to leverage leadership in a high-priority targeted
2 industry, or other state priorities as determined by the authority
3 pursuant to rules and regulations promulgated to implement this
4 section. Notwithstanding the provisions of subsection b. of section
5 12 of P.L. , c. (C.) (pending before the Legislature as this
6 bill) to the contrary, for applications submitted on and after the
7 effective date of P.L. , c. (C.) (pending before the
8 Legislature as this bill), if the redevelopment project is located
9 entirely on land designated by the Department of Environmental
10 Protection as a brownfield development area pursuant to section 7
11 of P.L.2005, c.223 (C.58:10B-25.1), and the project cost of the
12 redevelopment project includes at least \$15,000,000 in
13 environmental remediation costs, the redevelopment project shall
14 constitute a project of special economic importance. A
15 transformative project may be completed in phases, which phases
16 may be determined by the authority based on factors such as written
17 architectural plans and specifications completed before or during
18 the physical work, certificates of occupancy, or financial and
19 operational plans. The criteria developed by the authority shall
20 include, but shall not be limited to:

21 (1) the extent to which the proposed transformative project
22 would create modern facilities that enhance the State's
23 competitiveness in attracting targeted industries;

24 (2) (a) for a residential project, the construction of **[1,000]** 700
25 or more new residential units;

26 (b) for a residential project containing less than **[1,000]** 700
27 new residential units, the construction of **[250]** 200 or more new
28 residential units if the project is located in a government-restricted
29 municipality, **[350]** 300 or more residential units if the project is
30 located in an enhanced area, or **[600]** 400 or more residential units
31 for all other mixed-use projects;

32 (c) for a residential project containing less than **[1,000]** 700
33 new residential units, the construction of **[100,000]** 50,000 square
34 feet or more of **[retail or]** commercial space, with the majority
35 being **[commercial]** non-retail space; and

36 (d) for a residential project, 20 percent of the new residential
37 units shall be constructed for occupancy by low- and moderate-
38 income households with affordability controls as **[required under**
39 **the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)]**
40 adopted by the authority, in consultation with the agency, in
41 accordance with paragraph (2) of subsection a. of section 56 of
42 P.L.2020, c.156 (C.34:1B-324), except that a residential project
43 receiving a federal historic rehabilitation tax credit pursuant to
44 section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C.
45 s.47, or a tax credit pursuant to the "Historic Property Reinvestment
46 Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through

1 C.34:1B-276), shall be exempt from the affordability controls
2 related to bedroom distribution; and

3 (3) the extent to which the proposed project would leverage the
4 competitive economic development advantages of the State's mass
5 transit assets, higher education assets, and other economic
6 development assets in attracting or retaining both employers and
7 skilled workers generally or in targeted industries.

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

11 b. (1) The authority may award incentive awards to
12 transformative projects in accordance with the provisions of
13 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through
14 C.34:1B-335).

15 (2) (a) For transformative projects completed in phases, the
16 developer shall enter into a transformative phase agreement with the
17 authority.

18 (b) As used in this subsection, "transformative phase agreement"
19 shall mean a sub-agreement of the incentive award agreement that
20 governs the timing, capital investment, and other applicable details
21 of the respective phase of a phased project.

22 (3) Notwithstanding the provisions of section 57 of P.L.2020,
23 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
24 (C.34:1B-269 et al.) **[,]** to the contrary, **[for]** a transformative
25 project shall be completed, and the developer shall be issued a
26 certificate of occupancy for the transformative project facilities by
27 the applicable enforcing agency within five years of executing the
28 incentive award agreement. For transformative projects completed
29 in phases, the transformative project shall be completed, and the
30 developer shall be issued certificates of occupancy for all phases of
31 the transformative project facilities by the applicable enforcing
32 agency, within **[eight]** 10 years of executing either the incentive
33 award agreement or the first transformative phase agreement
34 corresponding to the transformative project.

35 (4) Notwithstanding the provisions of sections 55 and 60 of
36 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
37 section of P.L.2020, c.156 (C.34:1B-269 et al.) **[,]** to the contrary,
38 each phase of a transformative project completed in phases shall
39 have a separate eligibility period. After completing each phase, the
40 developer shall submit a certification that the phase is completed.
41 If the authority approves the certification, the tax credit allowed to
42 the developer shall be increased by the tax credit amount
43 corresponding to that phase. Notwithstanding the different
44 eligibility periods for each phase, all conditions and requirements
45 applicable during an eligibility period pursuant to sections 55
46 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335)
47 shall apply to the entire transformative project until the end of the
48 eligibility period for the last phase.

1 (5) Notwithstanding the provisions of section 60 of P.L.2020,
2 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
3 (C.34:1B-269 et al.) **[,]** to the contrary, for a transformative project
4 completed in phases, a review of the project financing gap shall be
5 performed at the certification of completion of each phase, and the
6 authority shall re-evaluate the developer's rate of return in the
7 seventh year and at the end of the eligibility period for the last
8 phase, provided that the authority may also re-evaluate the
9 developer's rate of return during the fifth year of any earlier phase.

10 (6) A transformative project receiving an incentive award
11 pursuant to this section, other than a project that includes 250,000
12 or more square feet of film studios, professional stages, television
13 studios, recording studios, screening rooms or other infrastructure
14 for film production, shall be located in an incentive area, a
15 distressed municipality, a government-restricted municipality, or an
16 enhanced area. A transformative project receiving an incentive
17 award pursuant to this section that includes 250,000 or more square
18 feet of film studios, professional stages, television studios,
19 recording studios, screening rooms or other infrastructure for film
20 production may be located anywhere in the State. **[No more than**
21 **two transformative projects receiving an incentive award pursuant**
22 **to this section shall be located in the same municipality.]** The
23 authority shall not consider an application for a transformative
24 project unless the applicant submits with its application a letter
25 evidencing support for the transformative project from the
26 governing body of the municipality in which the transformative
27 project is located.

28 c. The authority shall review the transformative project cost,
29 evaluate and validate the project financing gap estimated by the
30 developer, and conduct a State fiscal impact analysis to ensure that
31 the overall public assistance provided to the transformative project
32 will result in a net positive benefit to the State. In determining
33 whether a transformative project will result in a net positive benefit
34 to the State, the authority shall not consider the value of any taxes
35 exempted, abated, rebated, or retained under the "Five-Year
36 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
37 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
38 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
39 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
40 effect of lowering or eliminating the developer's State or local tax
41 liability. The determination made pursuant to this subsection shall
42 be based on the potential tax liability of the developer without
43 regard for potential tax losses if the developer were to locate in
44 another state. The authority shall assess the cost of these reviews to
45 the applicant. A developer shall pay to the authority the full
46 amount of the direct costs of an analysis concerning the developer's
47 application for an incentive award that a third party retained by the
48 authority performs, if the authority deems such retention to be

1 necessary. The authority shall evaluate the net economic benefits
2 on a present value basis under which the requested tax credit
3 allocation amount is discounted to present value at the same
4 discount rate as the projected benefits from the implementation of
5 the proposed transformative project for which an award of tax
6 credits is being sought. Projects that are predominantly residential
7 shall be excluded from the calculation of the net benefit test
8 required pursuant to this subsection.

9 d. In determining net benefits for any business or person
10 considering locating in a transformative project and applying to
11 receive from the authority any other economic development
12 incentive subsequent to the award of transformative project tax
13 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
14 authority shall not credit the business or person with any benefit
15 that was previously credited to the transformative project pursuant
16 to section 65 of P.L.2020, c.156 (C.34:1B-333).

17 e. The authority shall administer the credits awarded pursuant
18 to this section in accordance with the provisions of sections 62 and
19 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

20 f. Prior to allocating an incentive award to a developer, the
21 authority shall confirm with the Department of Labor and
22 Workforce Development, the Department of Environmental
23 Protection, and the Department of the Treasury that the developer is
24 in substantial good standing with the respective department, or the
25 developer has entered into an agreement with the respective
26 department that includes a practical corrective action plan, and the
27 developer shall certify that each contractor or subcontractor
28 performing work at the transformative project: (1) is registered as
29 required by "The Public Works Contractor Registration Act,"
30 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
31 by the Department of Labor and Workforce Development from
32 engaging in or bidding on Public Works Contracts in the State; and
33 (3) possesses a tax clearance certificate issued by the Division of
34 Taxation in the Department of the Treasury. The authority may also
35 contract with an independent third party to perform a background
36 check on the developer.

37 g. Notwithstanding the limitation on incentive awards set forth
38 in subsection b. of section 61 and section 98 of P.L.2020, c.156
39 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
40 allow a developer of a transformative project a tax credit **],** as
41 reimbursement for certain project financing gap costs, **]** in an
42 amount not to exceed **[40]** the lesser of:

43 (1) (a) 70 percent of the total project cost for a transformative
44 project that is located in a government-restricted municipality;

45 (b) 60 percent of the total project cost for a residential
46 transformative project that receives a four-percent allocation from
47 the federal Low Income Housing Tax Credit Program administered
48 by the agency or a transformative project that is located in a

1 qualified incentive tract, enhanced area, or a municipality with a
2 Municipal Revitalization Index score of at least 50; or
3 (c) 50 percent of the total project cost [.] for any other
4 transformative project;
5 (2) the total value of the project financing gap [.] ; or
6 [\$350,000,000 whichever is less; provided, however,] (3)
7 \$400,000,000, except that for a transformative project that is
8 developed in phases, the [\$350,000,000] \$400,000,000 limitation
9 on incentive awards set forth in this [subsection] paragraph shall
10 apply to the total aggregate award for all phases of the
11 transformative project.
12 (cf: P.L.2021, c.160, s.29)

13
14 9. Section 67 of P.L.2020, c.156 (C.34:1B-335) is amended to
15 read as follows:

16 67. a. Notwithstanding the provisions of the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) [.] to the
18 contrary, except as otherwise provided in subsection b. of this
19 section, the chief executive officer of the authority may adopt,
20 immediately, upon filing with the Office of Administrative Law,
21 regulations that the chief executive officer deems necessary to
22 implement the provisions of sections 54 through 67 of P.L.2020,
23 c.156 (C.34:1B-322 through C.34:1B-335), which regulations shall
24 be effective for a period not to exceed 180 days from the date of the
25 filing. The chief executive officer shall thereafter amend, adopt, or
26 readopt the regulations in accordance with the requirements of
27 P.L.1968, c.410 (C.52:14B-1 et seq.).

28 b. Notwithstanding the provisions of the "Administrative
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
30 contrary, the chief executive officer of the authority shall, in
31 consultation with the agency, adopt, immediately, upon filing with
32 the Office of Administrative Law, such rules and regulations as the
33 chief executive officer deems necessary to implement the provisions
34 of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
35 C.34:1B-335), as amended and supplemented by P.L. ,
36 c. (C.) (pending before the Legislature as this bill), which
37 rules and regulations shall be effective for a period not to exceed
38 365 days after the date of the filing. Before the expiration of the
39 rules and regulations, the chief executive officer shall amend, adopt,
40 or readopt the rules and regulations in accordance with the
41 requirements of the "Administrative Procedure Act," P.L.1968,
42 c.410 (C.52:14B-1 et seq.).
43 (cf: P.L.2020, c.156, s.67)

1 10. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to
2 read as follows:

3 71. a. Beginning on the effective date of P.L.2020, c.156
4 (C.34:1B-269 et al.), but prior to March 1, **【2027】** 2029, to be
5 eligible for tax credits under the program, a business's chief
6 executive officer, or equivalent officer, shall demonstrate to the
7 authority at the time of application that:

8 (1) the business will make, acquire, or lease a capital investment
9 at the qualified business facility equal to or greater than the
10 applicable amount set forth in subsection b. of this section;

11 (2) the business will create or retain new and retained full-time
12 jobs in the State in an amount equal to or greater than the applicable
13 number set forth in subsection c. of this section;

14 (3) the qualified business facility is located in a qualified
15 incentive area;

16 (4) the award of tax credits will be a material factor in the
17 business's decision to create or retain the number of new and
18 retained full-time jobs set forth in its application;

19 (5) the award of tax credits, the capital investment resultant
20 from the award of tax credits, and the resultant creation and
21 retention of new and retained full-time jobs will yield a net positive
22 benefit to the State equaling at least 400 percent of the requested
23 tax credit allocation amount, or for a phased project the requested
24 tax credit allocation amount for the initial phase, and on a
25 cumulative basis each phase thereafter, which determination shall
26 be calculated prior to considering the value of the requested tax
27 credit under the program and shall be based on the benefits
28 generated during the period of time from approval through the end
29 of the commitment period, or through the end of the longer period
30 of extended commitment that the business may elect for purposes of
31 receiving credit for benefits projected to occur after the expiration
32 of the commitment period, except that:

33 (a) an award of tax credits to a business for a qualified business
34 facility located in a distressed municipality or an enhanced area
35 shall yield a net positive benefit to the State, based on the benefits
36 generated during the period of time from approval through the end
37 of the commitment period, that equals at least 300 percent of the
38 requested tax credit amount;

39 (b) an award of tax credits to a business for a qualified business
40 facility located in a government-restricted municipality, or for a
41 mega project, shall yield a net positive benefit to the State, based on
42 the benefits generated during the period of time from approval
43 through the end of the commitment period, that equals at least 200
44 percent of the requested tax credit amount;

45 (c) the net economic benefits shall be evaluated on a present
46 value basis with the requested tax credit allocation amount
47 discounted to present value at the same discount rate as the benefits
48 from capital investment resultant from the award of tax credits and

1 the resultant retention and creation of full-time jobs as provided in
2 subparagraph (d) of this paragraph; and

3 (d) a business may elect a period of extended commitment
4 beyond the commitment period for which time the economic
5 benefits shall be creditable to the determination of the net economic
6 benefit of the project, and a business electing a period of extended
7 commitment and failing to maintain the project through the
8 expiration of that extended commitment period shall be obligated to
9 repay a proportion of the incremental benefits received on account
10 of having extended the commitment period, taking into
11 consideration the number of years of extended commitment during
12 which the business maintained the project;

13 (e) in making the determination required pursuant to this
14 paragraph, the authority shall not consider the value of any taxes
15 exempted, abated, rebated, or retained under the "Five-Year
16 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
17 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
18 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
19 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
20 effect of lowering or eliminating the business's State or local tax
21 liability, and the business's chief executive officer or equivalent
22 officer shall certify, under the penalty of perjury, that all documents
23 submitted, and factual assertions made, to the authority to
24 demonstrate that the award of tax credits will yield a net positive
25 benefit to the State in accordance with this paragraph are true and
26 accurate at the time of submission;

27 (f) If, during the term of the program, the methodology used by
28 the authority in projecting benefits of a project in making the
29 determination required pursuant to this paragraph is modified, the
30 respective percentages by which the benefits must exceed the
31 requested tax credit allocation amount set forth pursuant to this
32 paragraph (5) may be adjusted to ensure consistent application of
33 the respective thresholds in this paragraph (5) applied to each
34 application;

35 (6) the qualified business facility shall be in compliance with
36 minimum environmental and sustainability standards;

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

40 (8) (a) each worker employed to perform construction work or
41 building services work at the qualified business facility shall be
42 paid not less than the prevailing wage rate for the worker's craft or
43 trade, as determined by the Commissioner of Labor and Workforce
44 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
45 and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

46 (i) the work performed under the contract is performed at a
47 qualified business facility owned by a landlord that is not a business
48 receiving authority assistance;

1 (ii) the landlord is a party to the construction contract, building
2 services contract, or both; and

3 (iii) the qualified business facility constitutes a lease of less than
4 35 percent of the entire facility at the time of contract and under any
5 agreement to subsequently lease the qualified business facility.

6 (b) In accordance with section 1 of P.L.1979, c.303
7 (C.34:1B-5.1), nothing in this paragraph shall be construed as
8 requiring the payment of prevailing wage for construction
9 commencing more than two years after the authority has issued the
10 first certificate of compliance pursuant to paragraph (2) of
11 subsection a. of section 77 of P.L.2020, c.156 (C.34:1B-345).

12 b. (1) The minimum capital investment required to be eligible
13 under the program shall be as follows:

14 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
15 existing industrial, warehousing, logistics, or research and
16 development portion of the premises for continued similar use by
17 the business, a minimum investment of \$20 per square foot of gross
18 leasable area;

19 (b) for the new construction of an industrial, warehousing,
20 logistics, or research and development portion of the premises for
21 use by the business, a minimum investment of \$60 per square foot
22 of gross leasable area;

23 (c) for the rehabilitation, improvement, fit-out, or retrofit of
24 existing portion of the premises that does not qualify pursuant to
25 subparagraph (a) or (b) of this paragraph, a minimum investment of
26 \$40 per square foot of gross leasable area;

27 (d) for the new construction of a portion of the premises that
28 does not qualify pursuant to subparagraph (a) or (b) of this
29 paragraph, a minimum investment of \$120 per square foot of gross
30 leasable area; and

31 (e) for a small business, no new minimum capital investment
32 shall be required, provided the applicant has demonstrated evidence
33 satisfactory to the authority of its intent to remain in the State for
34 the commitment period.

35 (2) In the event the business invests less than that amount set
36 forth in paragraph (1) of this subsection in the qualified business
37 facility, the business shall donate the uninvested balance to the
38 infrastructure fund established pursuant to section 79 of P.L.2020,
39 c.156 (C.52:27D-520).

40 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
41 this subsection, the authority may adopt, pursuant to the provisions
42 of the "Administrative Procedure Act," P.L.1968, c.410
43 (C.52:14B-1 et seq.), rules and regulations adjusting the minimum
44 capital investment amounts required under the program when
45 necessary to respond to the prevailing economic conditions in the
46 State.

47 c. (1) The minimum number of new or retained full-time jobs
48 required to be eligible under the program shall be as follows:

1 (a) for a small business, 25 percent growth of its workforce with
2 new full-time jobs within the eligibility period in accordance with
3 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

4 (b) for a business engaged primarily in a targeted industry which
5 does not qualify as a small business, 25 new full-time jobs;

6 (c) for any other business, a minimum of 35 new full-time jobs;

7 (d) for a business eligible for new full-time jobs under
8 subparagraphs (b) or (c) of this paragraph, the business shall also be
9 eligible for retained full-time jobs in addition to the new full-time
10 jobs if the business will retain 150 retained full-time jobs when
11 locating in a government-restricted municipality, 250 retained full-
12 time jobs when locating in a qualified incentive tract or enhanced
13 area municipality, or 500 retained full-time jobs when locating
14 anywhere else in the State;

15 (e) for a business not eligible under subparagraphs (b), (c), or (d)
16 of this paragraph and locating in a qualified incentive tract,
17 enhanced area, or government-restricted municipality that will
18 retain 500 or more retained full-time jobs, a minimum of the
19 business's retained full-time jobs at the time of application;

20 (f) for a business not eligible under subparagraphs (b), (c), (d), or
21 (e) of this paragraph and located in the State that will retain 1,000
22 or more retained full-time jobs, a minimum of the business's
23 retained full-time jobs at the time of application.

24 (2) Notwithstanding the provisions of paragraph (1) of this
25 subsection, the authority may adopt, pursuant to the provisions of
26 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.), rules and regulations adjusting the minimum number of new
28 or retained full-time jobs required under the program when
29 necessary to respond to the prevailing economic conditions in the
30 State.

31 d. A business that provides and adheres to a plan that
32 demonstrates that the qualified business facility is capable of
33 accommodating more than half of the business's new and retained
34 full-time employees as approved and that certifies, under the
35 penalty of perjury, that not less than 80 percent of the withholdings
36 of new and retained full-time jobs are subject to the "New Jersey
37 Gross Income Tax Act," N.J.S.54A:1-1 et seq. shall be eligible.
38 The requirements set forth in this subsection may be modified by
39 the authority to respond to an emergency, disaster, or other factors
40 that result in employees of an eligible business having to work from
41 a location other than the qualified business facility.

42 e. The chief executive officer of the business, or an equivalent
43 officer, shall certify that all factual representations made by the
44 business to the authority pursuant to subsection a. of this section are
45 true under the penalty of perjury.

46 f. A business eligible pursuant to this section may submit an
47 application to the authority in accordance with the provisions of
48 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the

1 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
2 March 1, **[2027]** 2029.

3 (cf: P.L.2021, c.160, s.31)

4

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

7 98. a. The combined value of all tax credits awarded under the
8 "Historic Property Reinvestment Act," sections **[1]** 2 through 8 of
9 P.L.2020, c.156 **[(C.34:1B-269)]** (C.34:1B-270 through
10 C.34:1B-276); the **["Brownfield"]** "Brownfields Redevelopment
11 Incentive Program Act," sections 9 through 19 of P.L.2020, c.156
12 (C.34:1B-277 through C.34:1B-287); the "New Jersey Innovation
13 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
14 (C.34:1B-288 through C.34:1B-302); the "Food Desert Relief Act,"
15 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
16 C.34:1B-310); the "New Jersey Community-Anchored
17 Development Act," sections 43 through 53 of P.L.2020, c.156
18 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire
19 Program Act," sections 54 through 67 of P.L.2020, c.156
20 (C.34:1B-322 through C.34:1B-335); the "Emerge Program Act,"
21 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and
22 section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an
23 overall cap of \$11.5 billion over a **[seven-year]** nine-year period,
24 subject to the conditions and limitations set forth in this section. Of
25 this \$11.5 billion, \$2.5 billion shall be reserved for transformative
26 projects approved under the Aspire Program.

27 b. (1) The total value of tax credits awarded under any
28 constituent program of the "New Jersey Economic Recovery Act of
29 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
30 following annual limitations, except as otherwise provided in
31 subsection c. of this section:

32 (a) for tax credits awarded under the "Historic Property
33 Reinvestment Act," sections **[1]** 2 through 8 of P.L.2020, c.156
34 **[(C.34:1B-269)]** (C.34:1B-270 through C.34:1B-276), the total
35 value of tax credits annually awarded during each of the first six
36 years of the **[seven-year]** nine-year period shall not exceed \$50
37 million;

38 (b) for tax credits awarded under the **["Brownfield"]**
39 "Brownfields Redevelopment Incentive Program Act," sections 9
40 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287),
41 the total value of tax credits annually awarded during each of the
42 first six years of the **[seven-year]** nine-year period shall not exceed
43 \$50 million;

44 (c) for tax credits awarded under the "New Jersey Innovation
45 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
46 (C.34:1B-288 through C.34:1B-302), the total value of tax credits
47 annually awarded during each of the first six years of the **[seven-**

1 year] nine-year period shall not exceed \$60 million and the total
2 value of tax credits awarded over the entirety of the [seven-year
3 program] nine-year period shall not exceed \$300,000,000;

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

9 (e) for tax credits awarded under the "New Jersey Community-
10 Anchored Development Act," sections 43 through 53 of P.L.2020,
11 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
12 credits annually awarded during each of the first six years of the
13 [seven-year] nine-year period shall not exceed \$200 million, except
14 that during each of the first six years of the [seven-year] nine-year
15 period, the authority shall annually award tax credits valuing no
16 greater than \$130 million for projects located in the 13 northern
17 counties of the State, and the authority shall annually award tax
18 credits valuing no greater than \$70 million for projects located in
19 the eight southern counties of the State. If during any of the first
20 six years of the [seven-year] nine-year period, the authority awards
21 tax credits in an amount less than the annual limitation for projects
22 located in northern counties or southern counties, as applicable, the
23 uncommitted portion of the annual limitation shall be available to
24 be deployed by the authority in a subsequent year, provided that the
25 uncommitted portion of tax credits shall be awarded for projects
26 located in the applicable geographic area, except that (i) after the
27 completion of the third year of the [seven-year] nine-year period,
28 the authority may deploy 50 percent of the uncommitted portion of
29 tax credits from any previous year without consideration to the
30 county in which a project is located; and (ii) after the completion of
31 the sixth year of the [seven-year] nine-year period, the authority
32 may deploy all available tax credits, including the uncommitted
33 portion of the annual limitation for any previous year, without
34 consideration to the county in which a project is located;

35 (f) for tax credits awarded under the "New Jersey Aspire
36 Program Act," sections 54 through 67 of P.L.2020, c.156
37 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program
38 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et
39 al.), not including tax credits awarded for transformative projects,
40 the total value of tax credits annually awarded during each of the
41 first six years of the [seven-year] nine-year period shall not exceed
42 \$1.1 billion. If the authority awards tax credits in an amount less
43 than the annual limitation, then the uncommitted portion of the
44 annual limitation shall be made available for qualified offshore
45 wind projects awarded under section 6 of P.L.2010, c.57
46 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or
47 New Jersey studio partners and New Jersey film-lease partners

1 awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b
2 and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph.
3 During each of the first six years of the **【seven-year】** nine-year
4 period, the authority shall annually award tax credits valuing no
5 greater than \$715 million for projects located in the northern
6 counties of the State, and the authority shall annually award tax
7 credits valuing no greater than \$385 million for projects located in
8 the southern counties of the State under the "New Jersey Aspire
9 Program Act," sections 54 through 67 of P.L.2020, c.156
10 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program
11 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et
12 al.). If during any of the first six years of the **【seven-year】** nine-
13 year period, the authority awards tax credits under the "New Jersey
14 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
15 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program
16 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et
17 al.), in an amount less than the annual limitation for projects located
18 in northern counties or southern counties, as applicable, the
19 uncommitted portion of the annual limitation shall be available to
20 be deployed by the authority in a subsequent year, provided that the
21 uncommitted portion of tax credits shall be awarded for projects
22 located in the applicable geographic area, except that (i) after the
23 completion of the third year of the **【seven-year】** nine-year period,
24 the authority may deploy 50 percent of the uncommitted portion of
25 tax credits for any previous year without consideration to the county
26 in which a project is located; and (ii) after the completion of the
27 sixth year of the **【seven-year】** nine-year period, the authority may
28 deploy all available tax credits, including the uncommitted portion
29 of the annual limitation for any previous year, without consideration
30 to the county in which a project is located;

31 (g) except as provided in subparagraph (j) of this paragraph, for
32 tax credits awarded for transformative projects under the "New
33 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
34 c.156 (C.34:1B-322 through C.34:1B-335), the total value of tax
35 credits awarded during the **【seven-year】** nine-year period shall not
36 exceed \$2.5 billion. The total value of tax credits awarded for
37 transformative projects in a given year shall not be subject to an
38 annual limitation, except that the total value of tax credits awarded
39 to any transformative project shall not exceed **【\$350】** \$400 million;

40 (h) from the tax credits made available, pursuant to
41 subparagraph (f) of this paragraph, to the "New Jersey Aspire
42 Program Act," sections 54 through 67 of P.L.2020, c.156
43 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program
44 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et
45 al.), not including tax credits awarded for transformative projects,
46 an amount not to exceed \$350,000,000 shall be made available for
47 qualified offshore wind projects awarded a credit pursuant to

1 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
2 years of the **【seven-year】** nine-year period; **【and】**

3 (i) beginning in fiscal year 2025, from the tax credits made
4 available, pursuant to subparagraph (f) of this paragraph, to the
5 "New Jersey Aspire Program Act," sections 54 through 67 of
6 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
7 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
8 (C.34:1B-336 et al.), not including tax credits awarded for
9 transformative projects, additional amounts shall be made available
10 for New Jersey studio partners and New Jersey film-lease partners
11 pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and
12 C.54A:4-12b); and

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

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

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

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

- 1 (iii) the quality of project applications and the net economic
2 benefit to the State and municipalities associated with those
3 applications;
- 4 (iv) opportunities for project applications to strengthen or protect
5 the competitiveness of the state under the prevailing market
6 conditions;
- 7 (v) enhanced access to employment and investment for
8 underserved populations in distressed municipalities and qualified
9 incentives tracts;
- 10 (vi) increased investment and employment in high-growth
11 technology sectors and in projects that entail collaboration with
12 education institutions in the State;
- 13 (vii) increased development proximate to mass transit facilities;
- 14 (viii) any other factor deemed relevant by the authority.
- 15 c. In the event that the authority in any year approves projects
16 for tax credits in an amount less than the annual limitations set forth
17 in paragraph (1) of subsection b. of this section, then the
18 uncommitted portion of the annual limitation shall be available to
19 be deployed by the authority in future years for projects under the
20 same program; provided however, that in no event shall the
21 aggregate amount of tax credits approved be in excess of the overall
22 cap of \$11.5 billion, and in no event shall the uncommitted portion
23 of the annual limitation for any previous year be deployed after the
24 conclusion of the ~~seven-year~~ nine-year period.
25 (cf: P.L.2021, c.160, s.47)

26

27 12. (New section) a. (1) Except as otherwise provided in
28 subsection b. of this section, all program applications completed
29 after the effective date of P.L. , c. (C.) (pending before the
30 Legislature as this bill) shall be subject to the “New Jersey Aspire
31 Program Act,” sections 54 through 67 of P.L.2020, c.156
32 (C.34:1B-322 through C.34:1B-335), as amended as supplemented
33 by P.L. , c. (C.) (pending before the Legislature as this
34 bill), including the rules and regulations adopted pursuant to
35 subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-335).

36 (2) Except as otherwise provided in subsection b. of this section,
37 all program applications completed on or before the effective date
38 of P.L. , c. (C.) (pending before the Legislature as this
39 bill) shall be subject to the provisions of the “New Jersey Aspire
40 Program Act,” sections 54 through 67 of P.L.2020, c.156
41 (C.34:1B-322 through C.34:1B-335), as such provisions remained
42 in effect immediately before the effective date of P.L. ,
43 c. (C.) (pending before the Legislature as this bill), including
44 the rules and regulations adopted pursuant to subsection a. of
45 section 67 of P.L.2020, c.156 (C.34:1B-335).

46 b. Notwithstanding any provision of P.L.2020, c.156
47 (C.34:1B-269 et al.) to the contrary, if a completed application for a
48 residential project is submitted to the authority on or before the

1 121st calendar day next following effective date of P.L. ,
2 c. (C.) (pending before the Legislature as this bill), the
3 applicant for the residential project has received all applicable
4 approvals pursuant to the “Municipal Land Use Law,” P.L.1975,
5 c.291 (C.40:55D-1 et seq.) on or before the 121st calendar day next
6 following the effective date of P.L. , c. (C.) (pending
7 before the Legislature as this bill), and the applicant submits written
8 notice to the authority, before the authority’s approval or denial of
9 the application, electing for the application to be governed under
10 the provisions of this subsection, then the residential units
11 constructed for occupancy by low- and moderate-income
12 households within the residential project shall not be subject to the
13 affordability controls adopted by the authority, in consultation with
14 the agency, pursuant to paragraph (2) of subsection a. of section 56
15 of P.L.2020, c.156 (C.34:1B-324) and subsection b. of section 67 of
16 P.L.2020, c.156 (C.34:1B-335). In this event, the application for
17 the residential project shall be reviewed, approved, and
18 administered in accordance with the provisions of the “New Jersey
19 Aspire Program Act,” sections 54 through 67 of P.L.2020, c.156
20 (C.34:1B-322 through C.34:1B-335), as such provisions remained
21 in effect immediately before the effective date of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), including
23 the rules and regulations adopted pursuant to subsection a. of
24 section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
25 application shall be subject to:

26 (1) the determination of a reasonable and appropriate return on
27 investment, as defined in section 55 of P.L.2020, c.156
28 (C.34:1B-323), as amended by P.L. , c. (pending before the
29 Legislature as this bill); and

30 (2) the limitation on tax credit awards set forth in subsection b.
31 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
32 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
33 amended by P.L. , c. (pending before the Legislature as this
34 bill).

35
36 13. (New section) If an applicant has submitted a completed
37 program application that is pending approval by the authority on the
38 effective date of P.L. , c. (C.) (pending before the
39 Legislature as this bill), the applicant may withdraw the application
40 at any time before the authority approves or denies the application.
41 If the applicant withdraws the application, the authority shall return
42 all application fees paid by the applicant, and the withdrawal shall
43 not serve to prejudice the consideration of any program application
44 submitted by the applicant thereafter.

45
46 14. This act shall take effect immediately.

STATEMENT

1
2
3 This bill provides various changes to the New Jersey Aspire
4 Program (Aspire Program), which is administered by the New
5 Jersey Economic Development Authority (EDA) and was enacted as
6 part of the “New Jersey Economic Recovery Act of 2020.”

7 Under the Aspire Program, the EDA awards tax credits to the
8 developers of certain redevelopment projects, which projects would
9 not be economically feasible absent such subsidies, and which
10 projects meet certain other requirements. In turn, these developers
11 are required to comply with certain additional requirements
12 concerning the development of these projects, including, but not
13 limited to, the dedication of affordable housing in new residential
14 projects. Under current law, the total tax credits awarded for any
15 redevelopment project may not exceed certain statutory limitations,
16 except that the EDA may provide larger tax credit awards for
17 “transformative projects,” which meet certain eligibility criteria,
18 and which are also subject to statutory limitations on tax credit
19 awards.

20 The bill also revises other provisions of the “New Jersey
21 Economic Recovery Act of 2020,” including extending the period in
22 which other economic development programs, including the Emerge
23 Program, would remain in operation and authorizing the transfer of
24 certain tax credits otherwise available for the Aspire Program and
25 Emerge Program.

26
27 *Limitations on Tax Credit Awards*

28 The bill revises the maximum amounts of tax credits that may be
29 awarded to redevelopment projects and transformative projects
30 under the Aspire Program.

31 Under current law, the developer of a redevelopment project may
32 receive tax credits under the Aspire Program up to the following
33 amounts, subject to certain other limitations: (1) 60 percent of the
34 total project costs for any residential project that also receives
35 federal four-percent low income housing tax credits (LIHTCs), up
36 to \$60 million; (2) 50 percent of total project costs for any
37 commercial project located in a government-restricted municipality,
38 up to \$60 million; and (3) 45 percent of total project costs for any
39 other project, up to \$60 million if the project is located in a
40 qualified incentive tract, government-restricted municipality, or
41 municipality with a Municipal Revitalization Index distress score of
42 at least 50, or up to \$42 million if located elsewhere.

43 Instead, the bill provides that a redevelopment project may
44 receive tax credits up to the following amounts, subject to certain
45 other limitations: (1) 70 percent of total project costs for any project
46 located in a government-restricted municipality, up to \$120 million;
47 (2) 60 percent of total project costs for any residential project that
48 also receives LIHTCs or any redevelopment project located in a

1 qualified incentive tract, enhanced area, or a municipality with a
2 Municipal Revitalization Index score of at least 50, up to \$90
3 million; and (3) 50 percent of total project costs for any other
4 project, up to \$60 million.

5 Similarly, the bill provides that transformative projects may
6 receive tax credits equal to the lesser of \$400 million, the total
7 value of the project financing gap, or the following amounts: (1) 70
8 percent of total project costs for any transformative project located
9 in a government-restricted municipality; (2) 60 percent of the total
10 project costs for any residential transformative project that also
11 receives LIHTCs or any transformative project located in a
12 qualified incentive tract, enhanced area, or a municipality with a
13 Municipal Revitalization Index score of at least 50; or (3) 50
14 percent of total project costs for any other transformative project.
15 Under current law, all transformative projects are entitled to receive
16 tax credits up to 40 percent of the total project costs, the total value
17 of the project financing gap, or \$350 million, whichever is less.

18

19 *Eligibility Requirements for Commercial Projects*

20 The bill revises certain eligibility requirements for commercial
21 projects under the Aspire Program. Currently, a commercial project
22 is required to contain at least 100,000 square feet of commercial or
23 industrial space to qualify for the program. The bill reduces these
24 square footage requirements to at least 25,000 square feet for any
25 commercial project located in a government-restricted municipality
26 or 50,000 square feet for any other commercial project, except in
27 the case of health care or health services centers.

28 The bill also revises the eligibility criteria applicable to
29 commercial projects that include a health care or health services
30 center. Notably, the bill amends the existing definition of “health
31 care or health services center” to require these establishments to:
32 (1) contain not less than 10,000 square feet devoted to health care
33 or health services, where patients may be admitted for or seek
34 medical examination and treatment; and (2) be located within a
35 municipality that lacks adequate access to health care services, as
36 annually determined by the Commissioner of Health.
37 Notwithstanding the default square footage requirements for
38 commercial projects, the bill also provides that any redevelopment
39 project that is comprised solely of a health care or health services
40 center, and which contains not less than 10,000 square feet devoted
41 to health care or health services, would also qualify as a commercial
42 project under the Aspire Program. The bill also provides that if a
43 commercial project is comprised solely of a health care or health
44 services center, the health care or health services center is required
45 to comply with certain requirements concerning total project cost in
46 order for the project to qualify for a tax credit.

1 *Requirements for Residential Projects*

2 The bill revises certain requirements of the Aspire Program
3 concerning the approval of residential projects, including the
4 affordability controls that would be required within these projects.

5 Under current law, the developer of a new residential project is
6 required under the Aspire Program to reserve certain residential
7 units for low- and moderate-income housing. Current law requires
8 these residential units to be subject to affordability controls, as
9 required under the State’s “Fair Housing Act,” which affordability
10 controls have been adopted by the New Jersey Housing and
11 Mortgage Finance Agency (HMFA) and are known as the “Uniform
12 Housing Affordability Controls” (UHAC rules). However, these
13 rules do not apply to residential projects that receive federal
14 LIHTCs. As a result, residential projects that receive funding
15 through both the Aspire Program and the federal LIHTC Program
16 are generally not required to comply with the UHAC rules.

17 The bill revises the affordability controls that would apply to
18 residential projects under the Aspire Program. Specifically, the bill
19 requires the EDA, in consultation with the HMFA, to adopt rules
20 and regulations concerning the establishment and administration of
21 affordability controls for residential projects under the program,
22 including, but not limited to, residential projects that utilize federal
23 LIHTCs. At a minimum, these affordability controls would be
24 required to comply with the requirements of the UHAC rules, as in
25 effect upon the date of enactment of this bill, including any
26 requirements concerning the bedroom distributions, affordability
27 averages, affirmative marketing, and the long-term deed restriction
28 of residential units. However, the bill provides an exemption for
29 these bedroom distribution requirements for any residential project
30 that receives the federal historic rehabilitation tax credit or a State
31 tax credit under the “Historic Property Reinvestment Act.”

32 The bill also provides that when all residential units constructed
33 in a residential project are reserved for occupancy by low- and
34 moderate-income households, the calculation of total project costs
35 for the project would also include the developer fees paid before
36 acquiring permanent financing, as well as the deferred developer
37 fees pursuant to the rules established by the agency.

38

39 *Transformative Projects*

40 The bill revises several requirements of the Aspire Program
41 concerning the eligibility and approval of transformative projects.

42 Under current law, a redevelopment project is required to meet
43 the following criteria in order to qualify as a transformative project:
44 (1) have a project financing gap; (2) incur total project costs of at
45 least \$100 million; (3) contain 500,000 or more square feet of new
46 or substantially renovated industrial, commercial, or residential
47 space, except for projects which may include 250,000 or more
48 square feet of film studios, professional stages, television studios,

1 recording studios, screening rooms, or other infrastructure for film
2 production (“film-related space”); and (4) demonstrate a “special
3 economic importance” to the State, as measured by certain State
4 priorities determined by the EDA.

5 The bill establishes reduced square footage requirements for
6 certain transformative projects, as follows: (1) 200,000 or more
7 square feet of new or substantially renovated industrial,
8 commercial, or residential space for a project located in a
9 government-restricted municipality; and (2) 300,000 or more square
10 feet of new or substantially renovated industrial, commercial, or
11 residential space for a project located in an enhanced area. The bill
12 maintains the existing square footage requirements for any
13 transformative projects that do not meet these criteria.

14 Additionally, the bill increases the total project cost requirements
15 for transformative projects from \$100 million to \$150 million. The
16 bill also provides that only commercial projects would be required
17 to demonstrate a “special economic importance” in order to qualify
18 as transformative projects. However, when a redevelopment project
19 is located entirely on land designated as a brownfield development
20 area, and the project includes at least \$15 million in environmental
21 remediation costs, the bill provides that the redevelopment project
22 would be deemed to constitute a “special economic importance.”

23 Under current law, a residential project or mixed-use project that
24 qualifies as a transformative project is required to contain a
25 minimum number of residential units, which amounts vary
26 depending on the location of the project. The bill reduces the
27 number of residential units that are required to be included in these
28 projects. The bill also reduces the amount of commercial space,
29 from 100,000 square feet to 50,000 square feet, that is required to
30 be constructed within a residential project that includes less than
31 700 new residential units.

32 Under the bill, all transformative projects would be required to
33 be completed, and the developer would be required to receive a
34 certificate of occupancy for the project within five years of
35 executing the incentive award agreement. However, for a
36 transformative project completed in phases, the developer is
37 required to complete the project and receive a certificate of
38 occupancy for all phases of the project within 10 years of executing
39 either the incentive award agreement or the first transformative
40 phase agreement. Currently, all redevelopment projects are
41 required to be completed and receive certificates of occupancy
42 within four years, except that transformative projects that are
43 completed in phases are required to be completed within eight
44 years.

45 The bill removes the limitation on the number of transformative
46 projects that may be located within one municipality. Currently, the
47 EDA cannot award tax credits to more than two transformative
48 projects located within the same municipality.

1 *Additional Conditions of Incentive Award*

2 The bill revises several requirements of the Aspire Program,
3 which the developer of a redevelopment project may be required to
4 satisfy as a condition of receiving an incentive award.

5 Notably, the bill revises the circumstances in which a developer
6 would be exempt from the requirement to enter into a community
7 benefits agreement. Under current law, a developer that is
8 otherwise required to enter into a community benefits agreement is
9 exempt from this requirement when the developer provides the
10 EDA with an approval letter or redevelopment agreement, which is
11 certified by the municipality in which the project is located and
12 which includes provisions that meet or exceed the standards
13 required for community benefits agreements. Under the bill, the
14 developer would be considered to have met the requirements of the
15 community benefits agreement if the developer submits a resolution
16 to the EDA, which resolution was adopted by the governing body of
17 the municipality in which the redevelopment project is located after
18 at least one public hearing. Specifically, the resolution would be
19 required to state that the governing body has determined that the
20 redevelopment project will provide economic and social benefits to
21 the community that fulfill certain purposes, which benefits render a
22 separate community benefit agreement unnecessary, and explain the
23 reasons supporting the governing body's determination.

24 Additionally, the bill expands the allowance for certain
25 redevelopment projects to demonstrate a reduced net positive
26 benefit to the State. Currently, the developer of a redevelopment
27 project is required to demonstrate to the EDA that the award of tax
28 credits will result in a net positive benefit to the State in an amount
29 determined by the EDA, except not less than the amount of
30 requested tax credits. However, current law allows this net benefit
31 requirement to be reduced by up to 35 percentage points for any
32 project that is located in a government-restricted municipality.
33 Under the bill, this reduction in the net benefit requirement would
34 also apply to: (1) any commercial project that contains 50,000 or
35 more square feet of space devoted to research or technology focused
36 incubator and conferencing facilities for one or more institutions of
37 higher education or non-profit organizations, and which has a total
38 project cost of not less than \$50 million; and (2) any redevelopment
39 project that is predominantly commercial and that receives a federal
40 historic rehabilitation tax credit or a State tax credit under the
41 "Historic Property Reinvestment Act."

42 The bill also provides that the EDA may set a reduced net benefit
43 requirement for any redevelopment project that is undertaken by a
44 major cultural institution to renovate existing space or expand
45 services into additional space, and in which the major cultural
46 institution realizes all returns from the redevelopment project. As
47 defined in the bill, a "major cultural institution" includes any public
48 or nonprofit institution, except for an institution of higher

1 education, within this State that engages in the cultural, intellectual,
2 scientific, environmental, educational, or artistic enrichment of the
3 people of this State, and which institution is designated by the board
4 of the EDA as a major cultural institution.

5 The bill also provides an exception to the existing requirement
6 for certain workers, who are employed to perform building services
7 work at a redevelopment project, to be paid not less than the
8 prevailing wage rate. Under the bill, this requirement would not
9 apply to workers who are employed to perform building services
10 work by a tenant that has a leasehold interest in a redevelopment
11 project, which leasehold interest encompasses less than 5,000
12 square feet of space.

13

14 *Miscellaneous Program Changes*

15 The bill amends several other provisions of law governing the
16 Aspire Program, including expanding the scope of eligible incentive
17 areas under the program. Specifically, the bill amends the
18 definition of “incentive area” to also include any area designated as
19 a brownfield site pursuant to the "Brownfield and Contaminated
20 Site Remediation Act," provided that any portion of the brownfield
21 site is located in an area that otherwise qualifies as an incentive
22 area.

23 The bill also clarifies certain provisions of law governing the
24 duration of eligibility periods under the Aspire Program. Under
25 current law, after the EDA has approved an application for the
26 Aspire Program, the EDA is responsible for entering into an
27 incentive award agreement with the developer of the redevelopment
28 project. The incentive award agreement specifies the amount of the
29 tax credit award and the duration of the eligibility period, which
30 period may not exceed 15 years for a commercial or mixed-use
31 project or 10 years for a residential project. To reduce the total
32 value of tax credits needed to reimburse a developer for all or part
33 of the project financing gap of a redevelopment project, the bill
34 permits the EDA, in its discretion, to approve a duration for the
35 eligibility period that is shorter than the applicable maximum
36 periods.

37 Additionally, the bill requires the incentive award agreement to
38 include one or more provisions, as determined by the EDA,
39 concerning the terms and conditions for default and the remedies
40 for the developer of a redevelopment project in the event of default.
41 However, the EDA would not be permitted to declare a cross-
42 default when the developer of a redevelopment project, including
43 any business affiliate of the developer or any other entity with
44 common principals as the developer, defaults on any other
45 assistance program administered by the EDA.

46 The bill also amends current law to define the term “reasonable
47 and appropriate return on investment” under the Aspire Program,
48 which concept is used to determine a developer’s project financing

1 gap. In general, the bill defines this term in a manner consistent
2 with existing regulations. However, for any residential project that
3 utilizes federal LIHTCs and generates returns on equity other than
4 federal or local grants or proceeds from the sale of federal or local
5 tax credits, the bill provides that the calculation of “reasonable and
6 appropriate return on investment” would be based on both: (1) the
7 discount rate at which the present value of the future cash flows of
8 an investment equal the cost of the investment; and (2) with respect
9 only to the units financed with LIHTCs, the approval of deferred
10 developer fees pursuant to the rules established by the HMFA.

11 The bill also directs the Chief Executive Officer of the EDA to
12 adopt rules and regulations to implement the provisions of the
13 Aspire Program, as modified by this bill. Under the bill, these rules
14 and regulations would take effect immediately upon filing with the
15 Office of Administrative Law and would remain in effect for one
16 year. Thereafter, before the expiration of these rules and
17 regulations, the EDA would be required to amend, adopt, or readopt
18 rules and regulations in accordance with the “Administrative
19 Procedure Act.”

20

21 *Applicability to Prior and Future Applications*

22 Except in certain circumstances, the bill provides that all Aspire
23 Program applications completed after the date of enactment of this
24 bill would be subject to the provisions of this bill, including any
25 rules and regulations adopted by the EDA thereunder. In contrast,
26 all program applications completed on or before the enactment of
27 the bill would be subject to the existing provisions of law and
28 regulation governing the Aspire Program, except in certain
29 circumstances.

30 However, if a completed application for a residential project was
31 submitted within 121 days after the date of enactment, the applicant
32 receives all applicable approvals for the project under the
33 “Municipal Land Use Law” within such period, and the applicant
34 submits written notice to the EDA, the bill provides that the
35 application would be subject to some, but not all, of the provisions
36 of this bill. In this event, the bill requires the application to be
37 reviewed, approved, and administered in accordance with the
38 existing provisions of law and regulation governing the Aspire
39 Program, except for: (1) the determination of “reasonable and
40 appropriate return on investment,” as defined in the bill; and (2) the
41 limitations on total tax credit awards, as increased by the bill.

42 Additionally, the bill permits certain applicants to withdraw
43 pending applications for the Aspire Program. Specifically, an
44 applicant may withdraw any completed application that is pending
45 approval by the EDA on the date of enactment of this bill at any
46 time before the EDA approves or denies the application. In this
47 event, the EDA would be required to return all application fees paid
48 by the applicant, and the withdrawal may not serve to prejudice the

1 consideration of any program application submitted by the applicant
2 thereafter.

3

4 *Other Changes to “New Jersey Economic Recovery Act of 2020”*

5 The bill also provides additional changes to the “New Jersey
6 Economic Recovery Act of 2020,” which established the Aspire
7 Program, as well as several other economic development programs.
8 Under current law, the total value of tax credits awarded under
9 these economic development programs is limited to \$11.5 billion
10 over a seven-year period. The law also limits the amount of tax
11 credits that may be annually awarded under each of these programs
12 during certain years within this seven-year period.

13 Notably, the bill amends the “New Jersey Economic Recovery
14 Act of 2020” to increase the duration of this period from seven
15 years to nine years, thereby extending the period of operation of
16 these programs. As a part of this change, the bill also extends the
17 statutory deadline to apply for tax credits under the Emerge
18 Program from March 1, 2027 to March 1, 2029.

19 Additionally, the bill permits the EDA to annually transfer
20 certain tax credits otherwise allocated to the Aspire Program and
21 Emerge Program. Under current law, the total value of tax credits
22 to be awarded under the Aspire Program and Emerge Program, not
23 including transformative projects, may not exceed \$1.1 billion per
24 year over a six-year period, subject to certain carry-forward
25 authorizations. Current law also provides that the total value of tax
26 credits to be awarded for transformative projects under the Aspire
27 Program may not exceed an aggregate balance of \$2.5 billion.

28 Specifically, the bill provides that beginning in State Fiscal Year
29 2024, the EDA may transfer, from the annual allotment of tax
30 credits for the Aspire Program and Emerge Program, an amount not
31 to exceed \$500 million in tax credits for transformative projects
32 under the Aspire Program, provided that: (1) the remaining
33 allocation of tax credits otherwise available for transformative
34 projects is less than \$1 billion; and (2) the board of the EDA
35 determines that the transfer of tax credits is warranted based on
36 such criteria as the authority deems appropriate. However, if the
37 EDA elects to transfer these tax credits, the bill requires the EDA to
38 award no greater than 65 percent of the transferred tax credits to
39 transformative projects located in the northern counties of the State
40 and no greater than 35 percent of the transferred tax credits to
41 transformative projects located in the southern counties of the State.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 4023

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 27, 2023

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 4023, with committee amendments.

As amended and reported, this bill provides various changes to the New Jersey Aspire Program (Aspire Program), which is administered by the New Jersey Economic Development Authority (EDA) and was enacted as part of the “New Jersey Economic Recovery Act of 2020.”

Under the Aspire Program, the EDA awards tax credits to the developers of certain redevelopment projects, which projects would not be economically feasible absent such subsidies, and which projects meet certain other requirements. In turn, these developers are required to comply with certain additional requirements concerning the development of these projects, including, but not limited to, the dedication of affordable housing in new residential projects. Under current law, the total tax credits awarded for any redevelopment project may not exceed certain statutory limitations, except that the EDA may provide larger tax credit awards for “transformative projects,” which meet certain eligibility criteria, and which are also subject to statutory limitations on tax credit awards.

The bill also revises other provisions of the “New Jersey Economic Recovery Act of 2020,” including extending the period in which other economic development programs, including the Emerge Program, would remain in operation and authorizing the transfer of certain tax credits otherwise available for the Aspire Program and Emerge Program.

Limitations on Tax Credit Awards

The bill revises the maximum amounts of tax credits that may be awarded to redevelopment projects and transformative projects under the Aspire Program.

Under current law, the developer of a redevelopment project may receive tax credits under the Aspire Program up to the following amounts, subject to certain other limitations: (1) 60 percent of the total project costs for any residential project that also receives federal four-percent low income housing tax credits (LIHTCs), up

to \$60 million; (2) 50 percent of total project costs for any commercial project located in a government-restricted municipality, up to \$60 million; and (3) 45 percent of total project costs for any other project, up to \$60 million if the project is located in a qualified incentive tract, government-restricted municipality, or municipality with a Municipal Revitalization Index distress score of at least 50, or up to \$42 million if located elsewhere.

Instead, the bill provides that a redevelopment project may receive tax credits up to the following amounts, subject to certain other limitations: (1) 80 percent of total project costs for any project located in a government-restricted municipality, up to \$120 million; (2) 60 percent of total project costs for any residential project that also receives LIHTCs or any redevelopment project located in a qualified incentive tract, enhanced area, or a municipality with a Municipal Revitalization Index score of at least 50, up to \$90 million; and (3) 50 percent of total project costs for any other project, up to \$60 million.

Similarly, the bill provides that transformative projects may receive tax credits equal to the lesser of \$400 million, the total value of the project financing gap, or the following amounts: (1) 80 percent of total project costs for any transformative project located in a government-restricted municipality; (2) 60 percent of the total project costs for any residential transformative project that also receives LIHTCs or any transformative project located in a qualified incentive tract, enhanced area, or a municipality with a Municipal Revitalization Index score of at least 50; or (3) 50 percent of total project costs for any other transformative project. Under current law, all transformative projects are entitled to receive tax credits up to 40 percent of the total project costs, the total value of the project financing gap, or \$350 million, whichever is less.

Eligibility Requirements for Commercial Projects

The bill revises certain eligibility requirements for commercial projects under the Aspire Program. Currently, a commercial project is required to contain at least 100,000 square feet of commercial or industrial space to qualify for the program. The bill reduces these square footage requirements to at least 25,000 square feet for any commercial project located in a government-restricted municipality or 50,000 square feet for any other commercial project, except in the case of health care or health services centers.

The bill also revises the eligibility criteria applicable to commercial projects that include a health care or health services center. Notably, the bill amends the existing definition of “health care or health services center” to require these establishments to: (1) contain not less than 10,000 square feet devoted to health care or health services, where patients may be admitted for or seek medical examination and treatment; and (2) be located within a

municipality with a Municipal Revitalization Index distress score or at least 50, a distressed municipality, or a qualified incentive tract. Notwithstanding the default square footage requirements for commercial projects, the bill also provides that any redevelopment project that is comprised solely of a health care or health services center, and which contains not less than 10,000 square feet devoted to health care or health services, would also qualify as a commercial project under the Aspire Program. The bill also provides that if a commercial project is comprised solely of a health care or health services center, the health care or health services center is required to comply with certain requirements concerning total project cost in order for the project to qualify for a tax credit.

Requirements for Residential Projects

The bill revises certain requirements of the Aspire Program concerning the approval of residential projects, including the affordability controls that would be required within these projects.

Under current law, the developer of a new residential project is required under the Aspire Program to reserve certain residential units for low- and moderate-income housing. Current law requires these residential units to be subject to affordability controls, as required under the State's "Fair Housing Act," which affordability controls have been adopted by the New Jersey Housing and Mortgage Finance Agency (HMFA) and are known as the "Uniform Housing Affordability Controls" (UHAC rules). However, these rules do not apply to residential projects that receive federal LIHTCs. As a result, residential projects that receive funding through both the Aspire Program and the federal LIHTC Program are generally not required to comply with the UHAC rules.

The bill revises the affordability controls that would apply to residential projects under the Aspire Program. Specifically, the bill requires the EDA, in consultation with the HMFA, to adopt rules and regulations concerning the establishment and administration of affordability controls for residential projects under the program, including, but not limited to, residential projects that utilize federal LIHTCs. At a minimum, these affordability controls would be required to comply with the requirements of the UHAC rules, as in effect upon the date of enactment of this bill, including any requirements concerning the bedroom distributions, affordability averages, affirmative marketing, and the long-term deed restriction of residential units. However, the bill provides an exemption for these bedroom distribution requirements for any residential project that receives the federal historic rehabilitation tax credit or a State tax credit under the "Historic Property Reinvestment Act."

The bill also provides that when all residential units constructed in a residential project are reserved for occupancy by low- and moderate-income households, the calculation of total project costs

for the project would also include the developer fees paid before acquiring permanent financing, as well as the deferred developer fees pursuant to the rules established by the agency.

Transformative Projects

The bill revises several requirements of the Aspire Program concerning the eligibility and approval of transformative projects.

Under current law, a redevelopment project is required to meet the following criteria in order to qualify as a transformative project: (1) have a project financing gap; (2) incur total project costs of at least \$100 million; (3) contain 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space, except for projects which may include 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production (“film-related space”); and (4) demonstrate a “special economic importance” to the State, as measured by certain State priorities determined by the EDA.

The bill establishes reduced square footage requirements for certain transformative projects, as follows: (1) 200,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in a government-restricted municipality; and (2) 300,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in an enhanced area. The bill maintains the existing square footage requirements for any transformative projects that do not meet these criteria.

Additionally, the bill increases the total project cost requirements for transformative projects from \$100 million to \$150 million. The bill also provides that only commercial projects would be required to demonstrate a “special economic importance” in order to qualify as transformative projects. However, when a redevelopment project is located entirely on land designated as a brownfield development area, and the project includes at least \$15 million in environmental remediation costs, the bill provides that the redevelopment project would be deemed to constitute a “special economic importance.”

Under current law, a residential project or mixed-use project that qualifies as a transformative project is required to contain a minimum number of residential units, which amounts vary depending on the location of the project. The bill reduces the number of residential units that are required to be included in these projects. The bill also reduces the amount of commercial space, from 100,000 square feet to 50,000 square feet, that is required to be constructed within a residential project that includes fewer than 700 new residential units.

Under the bill, all transformative projects would be required to be completed, and the developer would be required to receive a

certificate of occupancy for the project, within five years of executing the incentive award agreement, except that the EDA may, in its discretion, extend this period by up to one additional year. However, for a transformative project completed in phases, the developer is required to complete the project and receive a certificate of occupancy for all phases of the project within 10 years of executing either the incentive award agreement or the first transformative phase agreement. Currently, all redevelopment projects are required to be completed and receive certificates of occupancy within four years, except that transformative projects that are completed in phases are required to be completed within eight years.

The bill removes the limitation on the number of transformative projects that may be located within one municipality. Currently, the EDA cannot award tax credits to more than two transformative projects located within the same municipality.

Additional Conditions of Incentive Award

The bill revises several requirements of the Aspire Program, which the developer of a redevelopment project may be required to satisfy as a condition of receiving an incentive award.

Notably, the bill revises the circumstances in which a developer would be exempt from the requirement to enter into a community benefits agreement. Under current law, a developer that is otherwise required to enter into a community benefits agreement is exempt from this requirement when the developer provides the EDA with an approval letter or redevelopment agreement, which is certified by the municipality in which the project is located and which includes provisions that meet or exceed the standards required for community benefits agreements. Under the bill, the developer would be considered to have met the requirements of the community benefits agreement if the developer submits a resolution to the EDA, which resolution was adopted by the governing body of the municipality in which the redevelopment project is located after at least one public hearing. Specifically, the resolution would be required to state that the governing body has determined that the redevelopment project will provide economic and social benefits to the community that fulfill certain purposes, which benefits render a separate community benefits agreement unnecessary, and explain the reasons supporting the governing body's determination. The bill also exempts any residential project that is located in a government-restricted municipality, and in which 100 percent of the residential units constructed in the residential project are reserved for occupancy by low- and moderate-income households, from the requirement to enter into a community benefits agreement.

Additionally, the bill expands the allowance for certain redevelopment projects to demonstrate a reduced net positive

benefit to the State. Currently, the developer of a redevelopment project is required to demonstrate to the EDA that the award of tax credits will result in a net positive benefit to the State in an amount determined by the EDA, except not less than the amount of requested tax credits. However, current law allows this net benefit requirement to be reduced by up to 35 percentage points for any project that is located in a government-restricted municipality. Under the bill, this reduction in the net benefit requirement would also apply to: (1) any commercial project that contains 50,000 or more square feet of space devoted to research or technology focused incubator and conferencing facilities for one or more institutions of higher education or non-profit organizations, and which has a total project cost of not less than \$50 million; (2) any redevelopment project that is predominantly commercial and that receives a federal historic rehabilitation tax credit or a State tax credit under the “Historic Property Reinvestment Act”; and (3) any commercial project that is located on land owned by the federal government on or before December 31, 2005.

The bill also provides that the EDA may set a reduced net benefit requirement for any redevelopment project that is undertaken by a major cultural institution to renovate existing space or expand services into additional space, and in which the major cultural institution realizes all returns from the redevelopment project. As defined in the bill, a “major cultural institution” includes any public or nonprofit institution, except for an institution of higher education, within this State that engages in the cultural, intellectual, scientific, environmental, educational, or artistic enrichment of the people of this State, and which institution is designated by the board of the EDA as a major cultural institution.

The bill also revises certain provisions of the Aspire Program concerning the prevailing wage requirement for persons employed to perform building services work. Under the bill, this requirement would not apply to workers who are employed to perform building services work by a commercial tenant, commercial subtenant, or other commercial occupant that has a leasehold interest or other occupancy right in a redevelopment project, which leasehold interest or other occupancy right encompasses less than 5,000 square feet of space. The bill also requires all leases, subleases, or other commercial occupancy agreements applicable to a redevelopment program to include a provision, in a form acceptable to the EDA, which sets forth the prevailing wage requirement.

Additionally, the bill provides that if a commercial tenant, commercial subtenant, or other commercial occupant violates the provision of the lease, sublease, or other commercial occupancy agreement due to the underpayment of the prevailing wage rate, then the developer and any co-applicant of the redevelopment project may be required to forfeit all or part of the tax credit award,

depending on the tax period in which the violation is cured and documentation of such correction has been reviewed and approved by Commissioner of Labor and Workforce Development and verified by the EDA. Specifically, the bill provides that if a violation is not cured, or is not capable of being cured, within one year of receipt of notice of the violation, the developer and any co-applicant would be required to forfeit 50 percent of the tax credits otherwise authorized for the tax period in which the notice of violation was issued. Thereafter, if the violation is not cured on or before the conclusion of that tax period, the developer and any co-applicant would be required to forfeit up to 100 percent of the tax credits otherwise authorized, as determined by the EDA, in each subsequent tax period until the violation has been cured, and documentation of such correction has been reviewed and approved by Commissioner of Labor and Workforce Development and verified by the EDA.

Miscellaneous Program Changes

The bill amends several other provisions of law governing the Aspire Program, including expanding the scope of eligible incentive areas under the program. Specifically, the bill amends the definition of “incentive area” to include: any area designated as a brownfield site pursuant to the “Brownfield and Contaminated Site Remediation Act”; and an area of not less than 100 acres for which a licensed site remediation professional has certified environmental remediation costs, as defined in this bill and in accordance with the “Site Remediation Reform Act,” in an amount not less than \$10 million, provided that any portion of such area is located in an area that otherwise qualifies as an incentive area.

The bill also clarifies certain provisions of law governing the duration of eligibility periods under the Aspire Program. Under current law, after the EDA has approved an application for the Aspire Program, the EDA is responsible for entering into an incentive award agreement with the developer of the redevelopment project. The incentive award agreement specifies the amount of the tax credit award and the duration of the eligibility period, which period may not exceed 15 years for a commercial or mixed-use project or 10 years for a residential project. To reduce the total value of tax credits needed to reimburse a developer for all or part of the project financing gap of a redevelopment project, the bill permits the EDA, in its discretion, to approve a duration for the eligibility period that is shorter than the applicable maximum periods.

Additionally, the bill requires the incentive award agreement to include one or more provisions, as determined by the EDA, concerning the terms and conditions for default and the remedies for the developer of a redevelopment project in the event of default.

However, the EDA would not be permitted to declare a cross-default when the developer of a redevelopment project, including any business affiliate of the developer or any other entity with common principals as the developer, defaults on any other assistance program administered by the EDA.

The bill also amends current law to define the term “reasonable and appropriate return on investment” under the Aspire Program, which concept is used to determine a developer’s project financing gap. In general, the bill defines this term in a manner consistent with existing regulations. However, for any residential project that utilizes federal LIHTCs and generates returns on equity other than federal or local grants or proceeds from the sale of federal or local tax credits, the bill provides that the calculation of “reasonable and appropriate return on investment” would be based on both: (1) the discount rate at which the present value of the future cash flows of an investment equal the cost of the investment; and (2) with respect only to the units financed with LIHTCs, the approval of deferred developer fees pursuant to the rules established by the HMFA.

The bill also directs the Chief Executive Officer of the EDA to adopt rules and regulations to implement the provisions of the Aspire Program, as modified by this bill. Under the bill, these rules and regulations would take effect immediately upon filing with the Office of Administrative Law and would remain in effect for one year. Thereafter, before the expiration of these rules and regulations, the EDA would be required to amend, adopt, or readopt rules and regulations in accordance with the “Administrative Procedure Act.”

Additionally, the bill permits the holders of tax credit transfer certificates to transfer all or part of the tax credit amount for use by a transferee, which transferee may claim the transferred tax credits over a maximum of six years, subject to certain annual limitations set forth in the bill.

The bill also requires the EDA to submit a report to the Governor and Legislature, on or before December 31, 2023, concerning the effectiveness of the program in encouraging development in government-restricted municipalities. At a minimum, the report would be required to include recommendations to incentivize additional development in government-restricted municipalities through financial assistance or other incentives that the authority determines are appropriate.

Applicability to Prior and Future Applications

Except in certain circumstances, the bill provides that all Aspire Program applications completed after the date of enactment of this bill would be subject to the provisions of this bill, including any rules and regulations adopted by the EDA thereunder. In contrast, all program applications completed on or before the enactment of

the bill would be subject to the existing provisions of law and regulation governing the Aspire Program, except in certain circumstances.

However, if a completed application for a residential project was submitted within 121 days after the date of enactment, the applicant receives all applicable approvals for the project under the “Municipal Land Use Law” within such period, and the applicant submits written notice to the EDA before the EDA’s decision on the application, the bill provides that the application would be subject to some, but not all, of the provisions of this bill. In this event, the bill requires the application to be reviewed, approved, and administered in accordance with the existing provisions of law and regulation governing the Aspire Program, except for: (1) the determination of “reasonable and appropriate return on investment,” as defined in the bill; and (2) the limitations on total tax credit awards, as increased by the bill.

Additionally, the bill permits certain applicants to withdraw pending applications for the Aspire Program. Specifically, an applicant may withdraw any completed application that is pending approval by the EDA on the date of enactment of this bill at any time before the EDA approves or denies the application. In this event, the EDA would be required to return all application fees paid by the applicant, and the withdrawal may not serve to prejudice the consideration of any program application submitted by the applicant thereafter.

Other Changes to “New Jersey Economic Recovery Act of 2020”

The bill also provides additional changes to the “New Jersey Economic Recovery Act of 2020,” which established the Aspire Program, as well as several other economic development programs. Under current law, the total value of tax credits awarded under these economic development programs is limited to \$11.5 billion over a seven-year period. The law also limits the amount of tax credits that may be annually awarded under each of these programs during certain years within this seven-year period.

Notably, the bill amends the “New Jersey Economic Recovery Act of 2020” to increase the duration of this period from seven years to nine years, thereby extending the period of operation of these programs. As a part of this change, the bill also extends the statutory deadline to apply for tax credits under the Emerge Program from March 1, 2027 to March 1, 2029.

Additionally, the bill permits the EDA to annually transfer certain tax credits otherwise allocated to the Aspire Program and Emerge Program. Under current law, the total value of tax credits to be awarded under the Aspire Program and Emerge Program, not including transformative projects, may not exceed \$1.1 billion per year over a six-year period, subject to certain carry-forward

authorizations. Current law also provides that the total value of tax credits to be awarded for transformative projects under the Aspire Program may not exceed an aggregate balance of \$2.5 billion.

Specifically, the bill provides that beginning in State Fiscal Year 2024, the EDA may transfer, from the annual allotment of tax credits for the Aspire Program and Emerge Program, an amount not to exceed \$500 million in tax credits for transformative projects under the Aspire Program, provided that: (1) the remaining allocation of tax credits otherwise available for transformative projects is less than \$1 billion; and (2) the board of the EDA determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate. However, if the EDA elects to transfer these tax credits, the bill requires the EDA to award no greater than 65 percent of the transferred tax credits to transformative projects located in the northern counties of the State and no greater than 35 percent of the transferred tax credits to transformative projects located in the southern counties of the State.

COMMITTEE AMENDMENTS:

The committee amendments provide the following changes to the bill:

(1) increase the amount of tax credits that may be awarded to a redevelopment project or transformative project that is located within a government-restricted municipality from 70 percent to 80 percent of the total project costs;

(2) allow the EDA, in its discretion, to extend the deadline for the completion of certain transformative projects, which are not completed in phases, by up to one additional year;

(3) revise the definition of “health care or health services center” to require the establishment to be located within a municipality with a Municipal Revitalization Index distress score of at least 50, a distressed municipality, or a qualified incentive tract. As introduced, the bill would have required these establishments to be located within a municipality that lacks adequate access to health care services, as annually determined by the Commissioner of Health;

(4) revise the definition of “incentive area” to include: any area designated as a brownfield site pursuant to the “Brownfield and Contaminated Site Remediation Act”; and an area of not less than 100 acres for which a licensed site remediation professional has certified environmental remediation costs, as defined in this bill and in accordance with the “Site Remediation Reform Act,” in an amount not less than \$10 million, provided that any portion such area is located in an area that otherwise qualifies as an incentive area;

(5) allow a reduction to the net benefit requirement of up to 35 percentage points for any commercial project that is located on land owned by the federal government on or before December 31, 2005;

(6) revise certain provisions of the Aspire Program concerning the prevailing wage requirement for persons employed to perform building services work, including: (i) requiring all leases, subleases, or other commercial occupancy agreements to include a provision setting forth this requirement; (ii) providing that if a commercial tenant, commercial subtenant, or other commercial occupant violates this requirement, the developer and any co-applicant may be required to forfeit all or part of the tax credit award, depending on when the violation is cured and documentation of such correction has been reviewed and approved by Commissioner of Labor and Workforce Development and verified by the EDA; and (iii) clarifying that the exemption from this requirement, as proposed in the bill, would apply to any commercial tenant, commercial subtenant, or other commercial occupant that has a leasehold interest or other occupancy right in a redevelopment project, which leasehold interest or other occupancy right encompasses less than 5,000 square feet of space within the project;

(7) eliminate the requirement applicable to certain residential transformative projects, which include fewer than 700 new residential units and at least 50,000 square feet of commercial space, for a majority of the commercial space to be non-retail space;

(8) exempt any residential project that is located in a government-restricted municipality, and in which 100 percent of the residential units constructed in the residential project are reserved for occupancy by low- and moderate-income households, from the requirement to enter into a community benefits agreement;

(9) require the EDA to submit a report to the Governor and Legislature, on or before December 31, 2023, concerning the effectiveness of the program in encouraging development in government-restricted municipalities;

(10) allow the holders of tax credit transfer certificates to transfer all or part of the tax credit amount for use by a transferee, which transferee may claim the transferred tax credits over a maximum of six years, subject to certain annual limitations set forth in the bill; and

(11) provide technical changes to the bill.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 4023 STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JULY 5, 2023

SUMMARY

- Synopsis:** Revises various provisions of “New Jersey Economic Recovery Act of 2020,” including revisions to New Jersey Aspire Program.
- Type of Impact:** Increase in State expenditures; two-year extension of tax credit programs, but no additional State revenue loss.
- Agencies Affected:** New Jersey Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>Through March 1, 2029</u>
State Expenditure Increase	Indeterminate
State Revenue Impact	Two-year extension of tax credit programs, but no additional State revenue loss

- The Office of Legislative Services (OLS) determines that this bill will result in some indeterminate expenditure increases for the New Jersey Economic Development Authority associated with the administrative costs of implementing certain changes to the New Jersey Aspire Program and the extension of various economic development programs established under the New Jersey Economic Recovery Act of 2020.
- The bill does not increase the total value of tax credits authorized under the Economic Recovery Act, which is capped at \$11.5 billion, or the total value of tax credits that may be annually awarded under the Aspire and Emerge programs, which is capped annually at \$1.1 billion over the first six years, not including transformative projects.
- Accordingly, the OLS concludes that the bill would not result in State revenue reductions. Instead, the two-year extension of these economic development programs is expected to prolong the period in which the State may experience revenue losses due to the claiming of tax credits otherwise authorized under the Economic Recovery Act.

BILL DESCRIPTION

This bill provides various changes to the New Jersey Aspire Program, which is administered by the New Jersey Economic Development Authority and was enacted as part of the New Jersey Economic Recovery Act of 2020.

Under the Aspire Program, the authority awards tax credits to the developers of certain redevelopment projects that would be economically infeasible without such subsidies and that meet certain other requirements. In turn, these developers are required to comply with certain requirements concerning the development of these projects, including, but not limited to, the dedication of affordable housing in new residential projects. Under current law, the total tax credits awarded for any redevelopment project may not exceed certain statutory limitations. However, the authority may provide larger tax credit awards for “transformative projects,” which meet certain eligibility criteria and are also subject to statutory limitations on tax credit awards.

The bill revises other provisions of the New Jersey Economic Recovery Act of 2020, including extending the period in which other economic development programs, such as the Emerge Program, would continue to operate and authorizes the transfer of certain tax credits otherwise available for the Aspire Program and Emerge Program.

The Senate Budget and Appropriations Committee statement to this bill from June 27, 2023 includes a more detailed discussion of the provisions of the proposed legislation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill will result in some indeterminate expenditure increases for the authority associated with the administrative costs of implementing certain changes to the Aspire Program and the extension of various economic development programs established under the New Jersey Economic Recovery Act of 2020.

Current law authorizes the issuance of up to \$11.5 billion in tax credits over seven years for various economic development programs established under the Economic Recovery Act. Additionally, under current law, the total value of tax credits to be awarded under the Aspire Program and Emerge Program, not including transformative projects, may not exceed \$1.1 billion annually for the first six years of the programs, subject to certain carry-forward authorizations. The total value of tax credits to be awarded annually for transformative projects under the Aspire program may not exceed an aggregate balance of \$2.5 billion.

This bill increases the duration period of the economic development programs established under the Economic Recovery Act from seven years to nine years and allows the transfer of certain unused credits from the Aspire Program and Emerge Program for transformative projects under the Aspire Program.

Additionally, the bill provides for numerous changes to the Aspire Program, including increasing the amount of tax credits that may be awarded to redevelopment projects and transformative projects, requiring the authority to establish new affordability controls for

residential redevelopment projects, and revising certain other requirements and conditions for the receipt of tax credits under the Aspire Program.

As a result, the OLS anticipates that the authority will incur some increases in administrative expenses associated with the implementation of certain changes to the Aspire Program, including the development of new affordability controls, and the review and approval of applications for various economic development programs during the two-year extension period.

The bill does not increase the total value of tax credits authorized under the Economic Recovery Act, which is capped at \$11.5 billion, or the total value of tax credits that may be annually awarded under the Aspire and Emerge programs, which is capped annually at \$1.1 billion over the first six years of the program, not including transformative projects. Accordingly, the OLS concludes that the bill would not result in State revenue reductions associated with the issuance of tax credits through the various economic development programs established under the Economic Recovery Act, including the Aspire Program. Instead, the two-year extension of these economic development programs is expected to prolong the period in which the State may experience revenue losses due to the claiming of tax credits otherwise authorized under the Economic Recovery Act.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Michael D. Walker
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.).

ASSEMBLY, No. 5644

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 15, 2023

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

SYNOPSIS

Revises various changes to “New Jersey Economic Recovery Act of 2020,” including revisions to New Jersey Aspire Program.

CURRENT VERSION OF TEXT

As introduced.



A5644 PINTOR MARIN

2

1 AN ACT concerning certain economic development programs and
2 amending and supplementing P.L.2020, c.156.

3

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

6

7 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
8 read as follows:

9 55. As used in sections 54 through 67 of P.L.2020, c.156
10 (C.34:1B-322 through C.34:1B-335):

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

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

16 "Aviation district" means all areas within the boundaries of the
17 Atlantic City International Airport, established pursuant to section
18 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
19 Administration William J. Hughes Technical Center and the area
20 within a one-mile radius of the outermost boundary of the Atlantic
21 City International Airport and the Federal Aviation Administration
22 William J. Hughes Technical Center.

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

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

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

40 "Collaborative workspace" means coworking, accelerator,
41 incubator, or other shared working environments that promote
42 collaboration, interaction, socialization, and coordination among
43 tenants through the clustering of multiple businesses or individuals.
44 For this purpose, the collaborative workspace shall be the greater
45 of: 2,500 of dedicated square feet or 10 percent of the total property

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.

1 on which the redevelopment project is situated. The collaborative
2 workspace shall include a community manager, be focused on
3 collaboration among the community members, and include
4 regularly scheduled education events for the community members.
5 The collaborative workspace shall also include a physical open
6 space that supports the engagement of its community members.

7 "Commercial project" means a redevelopment project, which is
8 predominantly commercial and, if located in a government-
9 restricted municipality, contains [100,000] 25,000 or more square
10 feet, or if located in any other municipality, contains 50,000 or
11 more square feet of office and retail space, industrial space, or film
12 studios, professional stages, television studios, recording studios,
13 screening rooms, or other infrastructure for film production, [for
14 purchase or lease] and may include a parking component. The term

15 "commercial project" includes a redevelopment project comprised
16 solely of a health care or health services center, which contains not
17 less than 10,000 square feet devoted to health care or health
18 services, and which may include a parking component.

19 "Developer" means a person who enters or proposes to enter into
20 an incentive award agreement pursuant to the provisions of section
21 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
22 a lender that completes a redevelopment project, operates a
23 redevelopment project, or completes and operates a redevelopment
24 project.

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

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

36 "Economic development incentive" means a financial incentive,
37 awarded by the authority, or agreed to between the authority and a
38 business or person, for the purpose of stimulating economic
39 development or redevelopment in New Jersey, including, but not
40 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
41 credit, or other tax expenditure.

42 "Eligibility period" means the period not to exceed 15 years for a
43 commercial or mixed-use project or the period not to exceed 10
44 years for a residential project specified in an incentive award
45 agreement during which a developer may claim a tax credit under
46 the program, as such period shall be determined by the authority
47 pursuant to subsection b. of section 60 of P.L.2020, c.156 (C.34:1B-
48 328).

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

7 "Environmental remediation costs" means any costs incurred by
8 a developer in the completion of any actions necessary to
9 investigate, clean up, or respond to a known, suspected, or
10 threatened discharge of contaminants, including, as necessary, the
11 preliminary assessment, site investigation, remedial investigation,
12 and remedial action, pursuant to sections 23 through 43 and section
13 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

14 "Food delivery source" means access to nutritious foods, such as
15 fresh fruits and vegetables, through grocery operators, including,
16 but not limited to a full-service supermarket or grocery store, and
17 other healthy food retailers of at least 16,000 square feet, including,
18 but not limited to, a prepared food establishment selling primarily
19 nutritious ready-to-serve meals.

20 "Food desert community" means a physically contiguous area in
21 the State in which residents have limited access to nutritious foods,
22 such as fresh fruits and vegetables, and that has been designated as
23 a food desert community pursuant to subsection b. of section 38 of
24 P.L.2020, c.156 (C.34:1B-306).

25 "Government-restricted municipality" means a municipality in
26 this State with a municipal revitalization index distress score of at
27 least 75, that met the criteria for designation as an urban aid
28 municipality in the 2019 State fiscal year, and that, on the effective
29 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
30 restrictions imposed pursuant to the "Municipal Stabilization and
31 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
32 restricted in its ability to levy property taxes on property in that
33 municipality as a result of the State of New Jersey owning or
34 controlling property representing at least 25 percent of the total land
35 area of the municipality or as a result of the federal government of
36 the United States owning or controlling at least 50 acres of the total
37 land area of the municipality, which is dedicated as a national
38 natural landmark.

39 "Health care or health services center" means an establishment
40 that consists of not less than 10,000 square feet devoted to health
41 care or health services, where patients are admitted for or seek
42 examination and treatment by one or more physicians, dentists,
43 psychologists, or other medical practitioners, and which is located
44 in a municipality that lacks adequate access to health care services,
45 as annually determined by the Commissioner of Health.

46 "Hospitality establishment" means a hotel, motel, or any
47 business, however organized, that sells food, beverages, or both for
48 consumption by patrons on the premises.

1 "Incentive area" means an aviation district **[,]** ; a port district **[,**
2 **or]** ; an area designated pursuant to the "State Planning Act,"
3 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
4 (Metropolitan), Planning Area 2 (Suburban), or a Designated
5 Center, provided an area designated as Planning Area 2 (Suburban)
6 or a Designated Center shall be located within a one-half mile
7 radius of the mid-point, with bicycle and pedestrian connectivity, of
8 a New Jersey Transit Corporation, Port Authority Transit
9 Corporation, or Port Authority Trans-Hudson Corporation rail, bus,
10 or ferry station, including all light rail stations, or a high frequency
11 bus stop as certified by the New Jersey Transit Corporation; and an
12 area designated as a brownfield site pursuant to the "Brownfield and
13 Contaminated Site Remediation Act," sections 23 through 43 and
14 section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.), provided that
15 any portion of the brownfield site is located in an area that
16 otherwise qualifies as an incentive area.

17 "Incentive award" means an award of tax credits to reimburse a
18 developer for all or a portion of the project financing gap of a
19 redevelopment project pursuant to the provisions of sections 54
20 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

21 "Incentive award agreement" means the contract executed
22 between a developer and the authority pursuant to section 60 of
23 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
24 conditions under which the developer may receive the incentive
25 awards authorized pursuant to the provisions of sections 54 through
26 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

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

34 "Individuals with special needs" means individuals with mental
35 illness, individuals with physical or developmental disabilities, and
36 individuals in other emerging special needs groups identified by the
37 authority, based on guidelines established for the administration of
38 the Special Needs Housing Trust Fund established pursuant to
39 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
40 consultation with other State agencies.

41 "Labor harmony agreement" means an agreement between a
42 business that serves as the owner or operator of a retail
43 establishment, hospitality establishment, or distribution center and
44 one or more labor organizations, which requires, for the duration of
45 the agreement: that any participating labor organization and its
46 members agree to refrain from picketing, work stoppages, boycotts,
47 or other economic interference against the business; and that the
48 business agrees to maintain a neutral posture with respect to efforts

1 of any participating labor organization to represent employees at an
2 establishment or other unit in the retail establishment, hospitality
3 establishment, or distribution center, agrees to permit the labor
4 organization to have access to the employees, and agrees to
5 guarantee to the labor organization the right to obtain recognition as
6 the exclusive collective bargaining representatives of the employees
7 in an establishment or unit at the retail establishment, hospitality
8 establishment, or distribution center by demonstrating to the New
9 Jersey State Board of Mediation, Division of Private Employment
10 Dispute Settlement, or a mutually agreed-upon, neutral, third-party
11 that a majority of workers in the unit have shown their preference
12 for the labor organization to be their representative by signing
13 authorization cards indicating that preference. The labor
14 organization or organizations shall be from a list of labor
15 organizations which have requested to be on the list and which the
16 Commissioner of Labor and Workforce Development has
17 determined represent substantial numbers of retail establishment,
18 hospitality establishment, or distribution center employees in the
19 State.

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

27 "Major cultural institution" means a public or nonprofit
28 institution, not including an institution of higher education, within
29 this State that engages in the cultural, intellectual, scientific,
30 environmental, educational, or artistic enrichment of the people of
31 this State, and which institution is designated by the board as a
32 major cultural institution.

33 "Major rail station" means a railroad station that is located within
34 a qualified incentive area and that provides to the public access to a
35 minimum of six rail passenger service lines operated by the New
36 Jersey Transit Corporation.

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

44 "Moderate-income housing" means housing affordable according
45 to federal Department of Housing and Urban Development or other
46 recognized standards for home ownership and rental costs and
47 occupied or reserved for occupancy by households with a gross
48 household income equal to more than 50 percent, but less than 80

1 percent, of the median gross household income for households of
2 the same size within the housing region in which the housing is
3 located.

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

9 "Port district" means the portions of a qualified incentive area
10 that are located within:

11 a. the "Port of New York District" of the Port Authority of
12 New York and New Jersey, as defined in Article II of the Compact
13 Between the States of New York and New Jersey of 1921; or

14 b. a 15-mile radius of the outermost boundary of each marine
15 terminal facility established, acquired, constructed, rehabilitated, or
16 improved by the South Jersey Port District established pursuant to
17 "The South Jersey Port Corporation Act," P.L.1968, c.60
18 (C.12:11A-1 et seq.).

19 "Program" means the New Jersey Aspire Program established by
20 section 56 of P.L.2020, c.156 (C.34:1B-324).

21 "Project cost" means the costs incurred in connection with a
22 redevelopment project by a developer until the issuance of a
23 permanent certificate of occupancy, or until such other time
24 specified by the authority, for a specific investment or
25 improvement, including the costs relating to lands, except the cost
26 of acquiring such lands, buildings, improvements, real or personal
27 property, or any interest therein, including leases discounted to
28 present value, including lands under water, riparian rights, space
29 rights, and air rights acquired, owned, developed or redeveloped,
30 constructed, reconstructed, rehabilitated, or improved, any
31 environmental remediation costs, plus costs not directly related to
32 construction, including capitalized interest paid to third parties, of
33 an amount not to exceed 20 percent of the total costs and the cost of
34 infrastructure improvements, including ancillary infrastructure
35 projects. When 100 percent of the residential units constructed in a
36 residential project are reserved for occupancy by low- and
37 moderate-income households, the term "project cost" shall also
38 include the developer fees paid before acquiring permanent
39 financing, as well as the deferred developer fees approved pursuant
40 to the rules established by the agency. The fees associated with the
41 application or administration of a grant under sections 54 through
42 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall not
43 constitute a project cost.

44 "Project financing gap" means the part of the total project cost,
45 including reasonable and appropriate return on investment, that
46 remains to be financed after all other sources of capital have been
47 accounted for, including, but not limited to developer contributed
48 capital, which shall not be less than 20 percent of the total project

1 cost, and investor or financial entity capital or loans for which the
2 developer, after making all good faith efforts to raise additional
3 capital, certifies that additional capital cannot be raised from other
4 sources on a non-recourse basis; provided, however, that for a
5 redevelopment project located in a government-restricted
6 municipality, the developer contributed capital shall not be less than
7 10 percent of the total project cost. Developer contributed capital
8 may consist of cash, deferred development fees, costs for project
9 feasibility incurred within the 12 months prior to application,
10 property value less any mortgages when the developer owns the
11 project site, and any other investment by the developer in the
12 project deemed acceptable by the authority, as provided by
13 regulations promulgated by the authority. Property value shall be
14 valued at the lesser of: (i) the purchase price, provided the property
15 was purchased pursuant to an arm's length transaction within 12
16 months of application; or (ii) the value as determined by a current
17 appraisal.

18 "Project labor agreement" means a form of pre-hire collective
19 bargaining agreement covering terms and conditions of a specific
20 project that satisfies the requirements set forth in section 5 of
21 P.L.2002, c.44 (C.52:38-5).

22 "Qualified incentive tract" means (i) a population census tract
23 having a poverty rate of 20 percent or more; or (ii) a census tract in
24 which the median family income for the census tract does not
25 exceed 80 percent of the greater of the Statewide median family
26 income or the median family income of the metropolitan statistical
27 area in which the census tract is situated.

28 "Quality childcare facility" is a child care center licensed by the
29 Department of Children and Families or a registered family child
30 care home with the Department of Human Services, operating
31 continuously, which has not been subject to an enforcement action,
32 and which has and maintains a licensed capacity for children age 13
33 years or younger who attend for less than 24 hours a day.

34 "Reasonable and appropriate return on investment" means the
35 discount rate at which the present value of the future cash flows of
36 an investment equals the cost of the investment. In determining the
37 "reasonable and appropriate return on investment," an investment
38 shall not include any federal, State, or local tax credits. For a
39 residential project that utilizes federal low-income housing tax
40 credits awarded by the agency, the "reasonable and appropriate
41 return on investment" shall be based on the approval of deferred
42 developer fees pursuant to the rules established by the agency. In
43 the event that a residential project, which utilizes federal low-
44 income housing tax credits awarded by the agency, generates
45 returns on equity other than federal or local grants or proceeds from
46 the sale of federal or local tax credits, the "reasonable and
47 appropriate return on investment" shall be based on both the
48 discount rate at which the present value of the future cash flows of

1 an investment equal the cost of the investment for the entire project,
2 and when evaluating only the units financed with federal low-
3 income housing tax credits awarded by the agency, the approval of
4 deferred developer fees pursuant to the rules established by the
5 agency.

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

15 "Residential project" means a redevelopment project that is
16 predominantly residential, intended for multi-family residency, and
17 may include a parking component.

18 "SDA district" means an SDA district as defined in section 3 of
19 P.L.2000, c.72 (C.18A:7G-3).

20 "SDA municipality" means a municipality in which an SDA
21 district is situated.

22 "Technology startup company" means a for-profit business that
23 has been in operation fewer than seven years at the time that it
24 initially occupies or expands in a qualified business facility and is
25 developing or possesses a proprietary technology or business
26 method of a high technology or life science-related product,
27 process, or service, which proprietary technology or business
28 method the business intends to move to commercialization. The
29 business shall be deemed to have begun operation on the date that
30 the business first hired at least one employee in a full-time position.

31 "Total project cost" means the costs incurred in connection with
32 the redevelopment project by the developer until the issuance of a
33 permanent certificate of occupancy, or upon such other event
34 evidencing project completion as set forth in the incentive grant
35 agreement, for a specific investment or improvement.

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

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

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

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

14 (cf: P.L.2021, c.160, s.22)

15
16 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
17 read as follows:

18 56. a. (1) The New Jersey Aspire Program is hereby
19 established as a program under the jurisdiction of the New Jersey
20 Economic Development Authority. The authority shall administer
21 the program to encourage redevelopment projects through the
22 provision of incentive awards to reimburse developers for certain
23 project financing gap costs. The board may approve the award of
24 an incentive award to a developer upon application to the authority
25 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
26 C.34:1B-327). The value of all tax credits approved by the
27 authority pursuant to sections 54 through 67 of P.L.2020, c.156
28 (C.34:1B-322 through C.34:1B-335) [.] shall be subject to the
29 limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

30 (2) The authority, in consultation with the agency, shall adopt
31 rules and regulations, pursuant to subsection b. of section 67 of
32 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
33 administration of the affordability controls that shall apply to the
34 residential units constructed for occupancy by low- and moderate-
35 income households under the program, including, but not limited to,
36 residential units within residential projects that utilize federal low-
37 income housing tax credits awarded by the agency.
38 Notwithstanding any provision of law or regulation to the contrary,
39 the affordability controls shall, at a minimum, be consistent with the
40 affordability controls established in the rules and regulations
41 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
42 (C.52:27D-301 et al.), as in effect immediately prior to the effective
43 date of P.L. , c. (C.) (pending before the Legislature as this
44 bill), including, but not limited to, any requirements concerning the
45 bedroom distributions, affordability averages, affirmative
46 marketing, and long-term deed restrictions of residential units
47 constructed for occupancy by low- and moderate-income
48 households.

1 b. The chief executive officer of the authority shall designate
2 one staff member per government-restricted municipality in order to
3 keep the municipality informed on activities within the municipality
4 and to coordinate economic development initiatives.

5 (cf: P.L.2020, c.156, s.56)

6
7 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
8 read as follows:

9 57. a. Prior to March 1, **[2027]** 2029, a developer shall be
10 eligible to receive an incentive award for a redevelopment project
11 only if the developer demonstrates to the authority at the time of
12 application that:

13 (1) without the incentive award, the redevelopment project is
14 not economically feasible;

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

18 (3) the redevelopment project, except a film studio, professional
19 stage, television studio, recording studio, screening room, or other
20 infrastructure used for film production, is located in the incentive
21 area;

22 (4) except for demolition and site remediation activities, the
23 developer has not commenced any construction at the site of the
24 redevelopment project prior to submitting an application, unless the
25 authority determines that the redevelopment project would not be
26 completed otherwise or, in the event the redevelopment project is to
27 be undertaken in phases, the requested incentive award is limited to
28 only phases for which construction has not yet commenced;

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

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

34 (7) (a) during the eligibility period, each worker employed to
35 perform construction work **[or building services work]** at the
36 redevelopment project shall be paid not less than the prevailing
37 wage rate for the worker's craft or trade, as determined by the
38 Commissioner of Labor and Workforce Development pursuant to
39 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
40 (C.34:11-56.58 et seq.). **[. In the event]** ; or

41 (b) during the eligibility period, each worker employed to
42 perform building services work at the redevelopment project shall
43 be paid not less than the prevailing wage rate for the worker's craft
44 or trade, as determined by the Commissioner of Labor and
45 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
46 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except
47 that: (i) this requirement shall not apply to workers employed to
48 perform building services work by a tenant that has a leasehold

1 interest in a redevelopment project, which leasehold interest
2 encompasses less than 5,000 square feet of space within the project;
3 and (ii) if a redevelopment project is undertaken by a tenant and the
4 tenant has a leasehold of more than 55 percent of space in the
5 building owned or controlled by the developer, ~~the~~ this
6 requirement ~~that each worker employed to perform building~~
7 service work at the building be paid not less than the prevailing
8 wage shall apply to the entire building, except as otherwise
9 provided in sub-subparagraph (i) of this subparagraph;

10 (8) (a) the redevelopment project shall be completed, and the
11 developer shall be issued a certificate of occupancy for the
12 redevelopment project facilities by the applicable enforcing agency
13 within four years of executing the incentive award agreement, or in
14 the case of a redevelopment project with a project cost in excess of
15 \$50,000,000, the incentive phase agreement corresponding to the
16 redevelopment project; or

17 (b) in the discretion of the authority, a redevelopment project
18 with a project cost in excess of \$50,000,000, and that is authorized
19 to be completed in phases, may be allowed no more than six years
20 from the date on which the incentive award agreement is executed
21 to be issued a certificate of occupancy by the applicable
22 enforcement agency;

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

28 (10) the developer is not more than 24 months in arrears at the
29 time of application.

30 b. In addition to the requirements set forth in subsection a. of
31 this section, for a commercial project to qualify for an incentive
32 award the developer shall demonstrate that the developer shall
33 contribute capital of at least 20 percent of the total project cost,
34 except that if a redevelopment project is located in a government-
35 restricted municipality, the developer shall contribute capital of at
36 least 10 percent of the total project cost.

37 c. In addition to the requirements set forth in subsection a. of
38 this section, for a residential project or a commercial project
39 comprised solely of a health care or health service center to qualify
40 for an incentive award, the residential project or health care or
41 health service center shall:

42 (1) have a total project cost of at least \$17,500,000, if the
43 project is located in a municipality with a population greater than
44 200,000 according to the latest federal decennial census;

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

1 (3) have a total project cost of at least \$5,000,000 if the project
2 is in a qualified incentive tract or government-restricted
3 municipality.

4 d. In addition to the requirements set forth in subsections a. and
5 c. of this section, for a residential project consisting of newly-
6 constructed residential units to qualify for an incentive award, the
7 developer shall reserve at least 20 percent of the residential units
8 constructed for occupancy by low- and moderate-income
9 households with affordability controls as **【required under the "Fair
10 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)】** adopted by
11 the authority, in consultation with the agency, in accordance with
12 paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
13 (C.34:1B-324), except that a residential project receiving a federal
14 historic rehabilitation tax credit pursuant to section 47 of the federal
15 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
16 pursuant to the "Historic Property Reinvestment Act," sections 2
17 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),
18 shall be exempt from the affordability controls related to bedroom
19 distribution.

20 e. Prior to the board considering an application submitted by a
21 developer, the authority shall confirm with the Department of Labor
22 and Workforce Development, the Department of Environmental
23 Protection, and the Department of the Treasury whether the
24 developer is in substantial good standing with the respective
25 department, or has entered into an agreement with the respective
26 department that includes a practical corrective action plan for the
27 developer. The developer shall certify that any contractors or
28 subcontractors that will perform work at the redevelopment project:
29 (1) are registered as required by "The Public Works Contractor
30 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
31 not been debarred by the Department of Labor and Workforce
32 Development from engaging in or bidding on Public Works
33 Contracts in the State; and (3) possess a tax clearance certificate
34 issued by the Division of Taxation in the Department of the
35 Treasury. The authority may also contract with an independent
36 third party to perform a background check on the developer.

37 (cf: P.L.2021, c.160, s.23)

38

39 4. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to
40 read as follows:

41 58. a. Prior to March 1, **【2027】** 2029, for redevelopment
42 projects eligible pursuant to section 57 of P.L.2020, c.156
43 (C.34:1B-325) for which a developer is seeking an incentive award
44 for the redevelopment project, the developer shall submit an
45 application to the authority and, in the case of a residential project,
46 shall submit an application to the authority and the agency, in a
47 form and manner prescribed in regulations adopted by the authority
48 **【, in consultation with the agency,】** pursuant to **【the provisions of**

1 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.)] section 67 of P.L.2020, c.156 (C.34:1B-335). The authority
3 shall accept applications for incentive awards during the grant
4 periods established pursuant to section 59 of P.L.2020, c.156
5 (C.34:1B-327).

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

11 c. The authority shall review the project cost, evaluate and
12 validate the project financing gap estimated by the developer, and
13 conduct a State fiscal impact analysis to ensure that the overall
14 public assistance provided to the project will result in a net positive
15 benefit to the State, provided that the net benefit analysis shall not
16 apply to capital investment for a food delivery source; a health care
17 or health services center [with a minimum of 10,000 square feet of
18 space devoted to health care or health services that is located in a
19 municipality with a Municipal Revitalization Index distress score of
20 at least 50 lacking adequate access, as determined by the
21 Commissioner of Health]; or a residential project. In determining
22 whether a project will result in a net positive benefit to the State,
23 the authority shall not consider the value of any taxes exempted,
24 abated, rebated, or retained under the "Five-Year Exemption and
25 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
26 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.),
27 the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
28 (C.52:27H-60 et seq.), or any other law that has the effect of
29 lowering or eliminating the developer's State or local tax liability.
30 The determination made pursuant to this subsection shall be based
31 on the potential tax liability of the developer without regard for
32 potential tax losses if the developer were to locate in another state.
33 The authority shall assess the cost of these reviews to the applicant.
34 A developer shall pay to the authority the full amount of the direct
35 costs of an analysis concerning the developer's application for a tax
36 credit that a third party retained by the authority performs, if the
37 authority deems such retention to be necessary. The authority shall
38 evaluate the net economic benefits on a present value basis under
39 which the requested tax credit allocation amount is discounted to
40 present value at the same discount rate as the projected benefits
41 from the implementation of the proposed redevelopment project for
42 which an award of tax credits is being sought.

43 d. (1) For a redevelopment project subject to the requirement
44 of subsection c. of this section to be eligible for any tax credits
45 under the program, a developer shall demonstrate to the authority
46 that the award of tax credits will yield a net positive benefit to the
47 State equaling an amount determined by the authority through
48 regulation that exceeds the requested tax credit amount. The

1 developer shall certify, under the penalty of perjury, that all
2 documents submitted, and factual assertions made, to the authority
3 to demonstrate that the award of tax credits will yield a net positive
4 benefit to the State in accordance with this subsection are true and
5 accurate at the time of submission.

6 (2) A redevelopment project located in a government-restricted
7 municipality shall yield a net positive benefit to the State that
8 exceeds the requested tax credit amount, but the net benefit
9 requirement set by the authority for such redevelopment projects
10 may be up to 35 percentage points lower than the net benefit
11 requirement set by the authority for all other eligible redevelopment
12 projects.

13 (3) A commercial project that contains 50,000 or more square
14 feet of space devoted to research or technology focused incubator
15 and conferencing facilities for one or more institutions of higher
16 education or non-profit organizations, and which has a total project
17 cost of not less than \$50 million, shall yield a net positive benefit to
18 the State that exceeds the requested tax credit amount, but the net
19 benefit requirement set by the authority for such redevelopment
20 projects may be up to 35 percentage points lower than the net
21 benefit requirement set by the authority for all other eligible
22 redevelopment projects.

23 (4) A redevelopment project that is predominantly commercial
24 and that receives a federal historic rehabilitation tax credit pursuant
25 to section 47 of the federal Internal Revenue Code of 1986, 26
26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property
27 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156
28 (C.34:1B-270 through C.34:1B-276), shall yield a net positive
29 benefit to the State that exceeds the requested tax credit amount, but
30 the net benefit requirement set by the authority for such
31 redevelopment projects may be up to 35 percentage points lower
32 than the net benefit requirement set by the authority for all other
33 eligible redevelopment projects.

34 (5) A redevelopment project that is undertaken by a major
35 cultural institution to renovate existing space or expand services
36 into additional space, and in which the major cultural institution
37 realizes all returns from the redevelopment project, shall yield a net
38 positive benefit to the State that exceeds the requested tax credit
39 amount, but the net benefit requirement set by the authority for such
40 redevelopment projects may be lower than the net benefit
41 requirement set by the authority for all other eligible redevelopment
42 projects.

43 e. If at any time during the eligibility period the authority
44 determines that the developer made a material misrepresentation on
45 the developer's application, the developer shall forfeit the incentive
46 award.

47 f. If circumstances require a developer to amend its application
48 to the authority, then the developer, or an authorized agent of the

1 developer, shall certify to the authority that the information
2 provided in its amended application is true under the penalty of
3 perjury.

4 (cf: P.L.2021, c.160, s.24)

5

6 5. Section 59 of P.L.2020, c.156 (C.34:1B-327) is amended to
7 read as follows:

8 59. a. Prior to March 1, **[2027]** 2029, for redevelopment
9 projects eligible pursuant to section 57 of P.L.2020, c.156
10 (C.34:1B-325), the authority shall award incentive awards based on
11 the order in which complete, qualifying applications were received
12 by the authority. If a developer intends to apply to both the
13 authority and the agency for subsidies, the developer shall notify
14 the agency simultaneously with any application made to the
15 authority. The authority shall transmit its grant determination for
16 such residential projects to the agency along with any information
17 developed by the authority and confirmation of the authority's intent
18 to provide an incentive award or award to the project. Approval of
19 an application by the agency shall be the final determination
20 required for an incentive award for a residential project under this
21 section.

22 b. Prior to allocating an incentive award to a redevelopment
23 project, the authority shall confirm with the Department of Labor
24 and Workforce Development, the Department of Environmental
25 Protection, and the Department of the Treasury that the developer is
26 in substantial good standing with the respective department, or a
27 developer not in substantial good standing with each department has
28 entered into an agreement with the respective department that
29 includes a practical corrective action plan for the developer, and
30 that the developer shall confirm that each contractor or
31 subcontractor performing work at the redevelopment project: (1) is
32 registered as required by "The Public Works Contractor
33 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
34 not been debarred by the Department of Labor and Workforce
35 Development from engaging in or bidding on Public Works
36 Contracts in the State; and (3) possesses a tax clearance certificate
37 issued by the Division of Taxation in the Department of the
38 Treasury. The authority may also contract with an independent
39 third party to perform a background check on the developer.
40 Provided that the developer, and all contractors and subcontractors,
41 are in compliance with this subsection, the authority shall allocate
42 incentive awards to redevelopment projects according to the
43 redevelopment project's score and until either the available
44 incentive awards are exhausted or all redevelopment projects
45 obtaining the minimum score receive an incentive award, whichever
46 occurs first. If insufficient funding exists to fully fund all eligible
47 projects, a project may be offered partial funding.

48 (cf: P.L.2021, c.160, s.25)

1 6. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
2 read as follows:

3 60. a. (1) Following approval and selection of an application
4 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
5 C.34:1B-327), the authority shall enter into an incentive award
6 agreement with the developer. The chief executive officer of the
7 authority shall negotiate the terms and conditions of the incentive
8 award agreement on behalf of the State.

9 (2) For a phased project, the incentive phase agreement shall set
10 forth, for each phase of the project and for the total project, the
11 capital investment requirements and the time periods in which each
12 phase of the project shall be commenced and completed. The
13 awarding of tax credits shall be conditioned on the developer's
14 compliance with the requirements of the agreement. A
15 redevelopment project may be completed in phases in accordance
16 with rules adopted by the authority if the redevelopment project has
17 a total project cost in excess of \$50,000,000.

18 b. An incentive award agreement shall specify the amount of
19 the incentive award the authority shall award to the developer and
20 the duration of the eligibility period **【, which】**. The duration of the
21 eligibility period shall not exceed 15 years for a commercial or
22 mixed-use project and shall not exceed 10 years for a residential
23 project, except that to reduce the total value of tax credits needed to
24 reimburse a developer for all or part of the project financing gap of
25 a redevelopment project, the authority may, in its discretion,
26 approve a duration for the eligibility period that is shorter than the
27 applicable maximum periods. The incentive award agreement shall
28 provide an estimated date of completion and include a requirement
29 for periodic progress reports, including the submittal of executed
30 financing commitments and documents that evidence site control.
31 If the authority does not receive periodic progress reports, or if the
32 progress reports demonstrate unsatisfactory progress, then the
33 authority may rescind the incentive award. If the authority rescinds
34 an incentive award in the same calendar year in which the authority
35 approved the incentive award, then the authority may assign the
36 incentive award to another applicant. The incentive award
37 agreement may also provide for a verification of the financing gap
38 at the time the developer provides executed financing commitments
39 to the authority and a verification of the developer's projected cash
40 flow at the time of certification that the project is completed.

41 c. To ensure the protection of taxpayer money, if the authority
42 determines at project certification that the actual capital financing
43 approach utilized by the project has resulted in a financing gap that
44 is smaller than the financing gap determined at board approval, the
45 authority shall reduce the amount of the tax credit or accept
46 payment from the developer on a pro rata basis. If there is no
47 project financing gap due to the actual capital financing approach
48 utilized by the project, then the developer shall forfeit the incentive

1 award. At the end of the seventh year of the eligibility period, the
2 authority shall evaluate the developer's rate of return on investment
3 and compare that rate of return on investment to the reasonable and
4 appropriate rate of return at the time of board approval. If the
5 actual rate of return on investment exceeds the reasonable and
6 appropriate rate of return on investment at the time of board
7 approval by more than 15 percent, the authority shall require the
8 developer to pay up to 20 percent of the amount in excess of the
9 reasonable and appropriate rate of return on investment. The
10 authority shall require an escrow account to be held by the authority
11 until the end of the eligibility period. Following the final year of
12 the eligibility period, the authority shall determine if the developer's
13 rate of return exceeded the reasonable and appropriate rate of return
14 determined at board approval. If the final rate of return does not
15 exceed the reasonable and appropriate rate of return determined at
16 board approval, the authority shall release to the developer the
17 escrowed funds. If the project final rate of return exceeds the
18 reasonable and appropriate rate of return determined at board
19 approval, the authority shall require the developer to pay up to 20
20 percent of the amount of the excess, which shall include the funds
21 held in escrow, and such funds shall be deposited in the State
22 General Fund.

23 d. The incentive award agreement shall include a requirement
24 that the authority confirm with the Department of Environmental
25 Protection, the Department of Labor and Workforce Development,
26 and the Department of the Treasury that the developer is in
27 substantial good standing with the respective department, or the
28 developer has entered into an agreement with the respective
29 department that includes a practical corrective action for the
30 developer, and the developer shall confirm that each contractor or
31 subcontractor performing work at the redevelopment project: (1) is
32 registered as required by "The Public Works Contractor
33 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
34 not been debarred by the Department of Labor and Workforce
35 Development from engaging in or bidding on Public Works
36 Contracts in the State; and (3) possesses a tax clearance certificate
37 issued by the Division of Taxation in the Department of the
38 Treasury. The incentive award agreement shall also include a
39 provision that the developer shall forfeit the incentive award in any
40 year in which the developer is neither in substantial good standing
41 with each department nor has entered into a practical corrective
42 action. The incentive award agreement shall also require a
43 developer to engage in on-site consultations with the Division of
44 Workplace Safety and Health in the Department of Health.

45 e. (1) Except as provided in paragraph (2) of this subsection,
46 the authority shall not enter into an incentive award agreement for a
47 redevelopment project that includes at least one retail establishment
48 which will have more than 10 employees, at least one distribution

1 center which will have more than 20 employees, or at least one
2 hospitality establishment which will have more than 10 employees,
3 unless the incentive award agreement includes a precondition that
4 any business that serves as the owner or operator of the retail
5 establishment **【or】**, distribution center, or hospitality establishment
6 enters into a labor harmony agreement with a labor organization or
7 cooperating labor organizations which represent retail
8 establishment, hospitality establishment, or distribution center
9 employees in the State.

10 (2) A labor harmony agreement shall be required only if the
11 State has a proprietary interest in the redevelopment project and
12 shall remain in effect for as long as the State acts as a market
13 participant in the redevelopment project. The authority may enter
14 into an incentive award agreement with a developer without the
15 labor harmony agreement required under paragraph (1) of this
16 subsection if the authority determines that the redevelopment
17 project would not be able to go forward if a labor harmony
18 agreement is required. The authority shall support the
19 determination by a written finding, which provides the specific
20 basis for the determination.

21 (3) **【As used in this subsection:**

22 "Hospitality establishment" means a hotel, motel, or any
23 business, however organized, that sells food, beverages, or both for
24 consumption by patrons on the premises.

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

1 center employees in the State.】 (Deleted by amendment, P.L. ,
2 c.) (pending before the Legislature as this bill)

3 f. (1) For a redevelopment project whose total project cost
4 equals or exceeds \$10 million, in addition to the incentive award
5 agreement, a developer shall enter into a community benefits
6 agreement with the authority and the county or municipality in
7 which the redevelopment project is located. The agreement may
8 include, but shall not be limited to, requirements for training,
9 employment, and youth development and free services to
10 underserved communities in and around the community in which
11 the redevelopment project is located. Prior to entering a community
12 benefits agreement, the governing body of the county or
13 municipality in which the redevelopment project is located shall
14 hold at least one public hearing at which the governing body shall
15 hear testimony from residents, community groups, and other
16 stakeholders on the needs of the community that the agreement
17 should address.

18 (2) The community benefits agreement shall provide for the
19 creation of a community advisory committee to oversee the
20 implementation of the agreement, monitor successes, ensure
21 compliance with the terms of the agreement, and produce an annual
22 public report. The community advisory committee created pursuant
23 to this paragraph shall be comprised of representatives of diverse
24 community groups and residents of the county or municipality in
25 which the redevelopment project is located.

26 (3) At the time the developer submits the annual report required
27 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
28 authority, the developer shall certify, under the penalty of perjury,
29 that it is in compliance with the terms of the community benefits
30 agreement. If the developer fails to provide the certification
31 required pursuant to this paragraph or the authority determines that
32 the developer is not in compliance with the terms of the community
33 benefits agreement based on the reports submitted by the
34 community advisory committee pursuant to paragraph (2) of this
35 subsection, then the authority may rescind an award or recapture all
36 or part of any tax credits awarded.

37 (4) **【A】** Notwithstanding any requirement of this subsection to
38 the contrary, a developer shall **【not be required to enter into】** be
39 considered to have met the requirements of a community benefits
40 agreement pursuant to this subsection if the developer submits to
41 the authority:

42 (a) a copy of either the developer's approval letter from the
43 authority or a redevelopment agreement applicable to the qualified
44 business facility, provided that the approval letter or redevelopment
45 agreement is certified by the municipality in which the
46 redevelopment project is located, and includes provisions that meet
47 or exceed the standards required for a community benefits
48 agreement in this subsection, as determined by the chief executive

1 officer pursuant to rules adopted by the authority; or (b) a
2 resolution adopted by the governing body of the municipality in
3 which the redevelopment project is located, which resolution shall
4 be adopted after at least one public hearing at which the governing
5 body provides an opportunity for residents, community groups, and
6 other stakeholders to testify, and which resolution shall state that
7 the governing body has determined that the redevelopment project
8 will provide economic and social benefits to the community that
9 fulfill the purposes of this subsection, which benefits render a
10 separate community benefit agreement unnecessary, and explain the
11 reasons supporting the governing body's determination.

12 g. A developer shall submit, prior to the first disbursement of
13 tax credits under the incentive award agreement, but no later than
14 six months following project completion, satisfactory evidence of
15 actual project costs, as certified by a certified public accountant,
16 evidence of a temporary certificate of occupancy, or other event
17 evidencing project completion that begins the eligibility period
18 indicated in the incentive award agreement. The developer, or an
19 authorized agent of the developer, shall certify that the information
20 provided pursuant to this subsection is true under the penalty of
21 perjury. Claims, records, or statements submitted by a developer to
22 the authority in order to receive tax credits shall not be considered
23 claims, records, or statements made in connection with State tax
24 laws.

25 h. The incentive award agreement shall include a provision
26 allowing the authority to extend, in individual cases, the deadline
27 for any annual reporting or certification requirement.

28 i. The incentive award agreement shall include one or more
29 provisions, as determined by the authority, concerning the terms
30 and conditions for default and the remedies for the developer of a
31 redevelopment project in the event of default. The incentive award
32 agreement shall not allow the authority to declare a cross-default
33 when the developer of a redevelopment project, including any
34 business affiliate of the developer or any other entity with common
35 principals as the developer, is in default with any other assistance
36 program administered by the authority.

37 (cf: P.L.2021, c.160, s.26)

38

39 7. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
40 read as follows:

41 61. a. Up to the limits established in subsection b. of this
42 section and in accordance with an incentive award agreement,
43 beginning upon the receipt of occupancy permits for any portion of
44 the redevelopment project, or upon any other event evidencing
45 project completion as set forth in the incentive award agreement, a
46 developer shall be allowed a total tax credit that shall not exceed:

47 (1) 70 percent of the total project cost for a redevelopment
48 project that is located in a government-restricted municipality;

1 (2) 60 percent of the total project cost for **the new construction**
 2 of **a residential project that receives a four-percent allocation from**
 3 the federal Low Income Housing Tax Credit Program administered
 4 by the agency **;**

5 (2) 50 percent of the total project cost for a commercial project
 6 that is located in a government-restricted municipality;**]** or a
 7 redevelopment project that is located in a qualified incentive tract,
 8 enhanced area, or a municipality with a Municipal Revitalization
 9 Index score of at least 50; or

10 (3) **[45]** 50 percent of the total project cost for any other
 11 redevelopment project.

12 b. The value of all tax credits approved by the authority under
 13 the program for a redevelopment project phase shall not exceed:

14 (1) **[\$60,000,000]** \$120,000,000 per redevelopment project or
 15 phase for a redevelopment project that is located in a government-
 16 restricted municipality;

17 (2) \$90,000,000 per redevelopment project or phase for a
 18 **[residential]** redevelopment project that is allowed a tax credit
 19 under paragraph **[(1)]** (2) of subsection a. of this section **],** or a
 20 redevelopment project or phase that is located in a qualified
 21 incentive tract, government-restricted municipality, or municipality
 22 with a Municipal Revitalization Index distress score of at least 50**];**
 23 and

24 **[(2) \$42,000,000]** (3) \$60,000,000 for any other redevelopment
 25 project or phase.

26 (cf: P.L.2021, c.160, s.27)

28 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
 29 read as follows:

30 65. a. As used in this section, "transformative project" means a
 31 redevelopment project; that has a project financing gap **[,] ;** that
 32 has a total project cost of at least **[\$100,000,000, and]**
 33 \$150,000,000; that includes **[500,000]** 200,000 or more square feet
 34 of new or substantially renovated industrial, commercial, or
 35 residential space **[or]** for a project located in a government-
 36 restricted municipality, that includes 250,000 or more square feet of
 37 film studios, professional stages, television studios, recording
 38 studios, screening rooms, or other infrastructure for film
 39 production, that includes 300,000 or more square feet of new or
 40 substantially renovated industrial, commercial, or residential space
 41 for a project located in an enhanced area, or that includes 500,000
 42 or more square feet of new or substantially renovated industrial,
 43 commercial, or residential space for any other project; and **[which]**
 44 , for a commercial project, that is of special economic importance as
 45 measured by the level of new jobs, new capital investment,
 46 opportunities to leverage leadership in a high-priority targeted

1 industry, or other state priorities as determined by the authority
2 pursuant to rules and regulations promulgated to implement this
3 section. Notwithstanding the provisions of subsection b. of section
4 12 of P.L. , c. (C.) (pending before the Legislature as this
5 bill) to the contrary, for applications submitted on and after the
6 effective date of P.L. , c. (C.) (pending before the
7 Legislature as this bill), if the redevelopment project is located
8 entirely on land designated by the Department of Environmental
9 Protection as a brownfield development area pursuant to section 7
10 of P.L.2005, c.223 (C.58:10B-25.1), and the project cost of the
11 redevelopment project includes at least \$15,000,000 in
12 environmental remediation costs, the redevelopment project shall
13 constitute a project of special economic importance. A
14 transformative project may be completed in phases, which phases
15 may be determined by the authority based on factors such as written
16 architectural plans and specifications completed before or during
17 the physical work, certificates of occupancy, or financial and
18 operational plans. The criteria developed by the authority shall
19 include, but shall not be limited to:

20 (1) the extent to which the proposed transformative project
21 would create modern facilities that enhance the State's
22 competitiveness in attracting targeted industries;

23 (2) (a) for a residential project, the construction of **[1,000]** 700
24 or more new residential units;

25 (b) for a residential project containing less than **[1,000]** 700
26 new residential units, the construction of **[250]** 200 or more new
27 residential units if the project is located in a government-restricted
28 municipality, **[350]** 300 or more residential units if the project is
29 located in an enhanced area, or **[600]** 400 or more residential units
30 for all other mixed-use projects;

31 (c) for a residential project containing less than **[1,000]** 700
32 new residential units, the construction of **[100,000]** 50,000 square
33 feet or more of **[retail or]** commercial space, with the majority
34 being **[commercial]** non-retail space; and

35 (d) for a residential project, 20 percent of the new residential
36 units shall be constructed for occupancy by low- and moderate-
37 income households with affordability controls as **[required under**
38 **the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)]**
39 adopted by the authority, in consultation with the agency, in
40 accordance with paragraph (2) of subsection a. of section 56 of
41 P.L.2020, c.156 (C.34:1B-324), except that a residential project
42 receiving a federal historic rehabilitation tax credit pursuant to
43 section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C.
44 s.47, or a tax credit pursuant to the "Historic Property Reinvestment
45 Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
46 C.34:1B-276), shall be exempt from the affordability controls
47 related to bedroom distribution; and

1 (3) the extent to which the proposed project would leverage the
2 competitive economic development advantages of the State's mass
3 transit assets, higher education assets, and other economic
4 development assets in attracting or retaining both employers and
5 skilled workers generally or in targeted industries.

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

9 b. (1) The authority may award incentive awards to
10 transformative projects in accordance with the provisions of
11 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through
12 C.34:1B-335).

13 (2) (a) For transformative projects completed in phases, the
14 developer shall enter into a transformative phase agreement with the
15 authority.

16 (b) As used in this subsection, "transformative phase agreement"
17 shall mean a sub-agreement of the incentive award agreement that
18 governs the timing, capital investment, and other applicable details
19 of the respective phase of a phased project.

20 (3) Notwithstanding the provisions of section 57 of P.L.2020,
21 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
22 (C.34:1B-269 et al.) **[,]** to the contrary, **[for]** a transformative
23 project shall be completed, and the developer shall be issued a
24 certificate of occupancy for the transformative project facilities by
25 the applicable enforcing agency within five years of executing the
26 incentive award agreement. For transformative projects completed
27 in phases, the transformative project shall be completed, and the
28 developer shall be issued certificates of occupancy for all phases of
29 the transformative project facilities by the applicable enforcing
30 agency, within **[eight]** 10 years of executing either the incentive
31 award agreement or the first transformative phase agreement
32 corresponding to the transformative project.

33 (4) Notwithstanding the provisions of sections 55 and 60 of
34 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
35 section of P.L.2020, c.156 (C.34:1B-269 et al.) **[,]** to the contrary,
36 each phase of a transformative project completed in phases shall
37 have a separate eligibility period. After completing each phase, the
38 developer shall submit a certification that the phase is completed.
39 If the authority approves the certification, the tax credit allowed to
40 the developer shall be increased by the tax credit amount
41 corresponding to that phase. Notwithstanding the different
42 eligibility periods for each phase, all conditions and requirements
43 applicable during an eligibility period pursuant to sections 55
44 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335)
45 shall apply to the entire transformative project until the end of the
46 eligibility period for the last phase.

47 (5) Notwithstanding the provisions of section 60 of P.L.2020,
48 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156

1 (C.34:1B-269 et al.) **【,】** to the contrary, for a transformative project
2 completed in phases, a review of the project financing gap shall be
3 performed at the certification of completion of each phase, and the
4 authority shall re-evaluate the developer's rate of return in the
5 seventh year and at the end of the eligibility period for the last
6 phase, provided that the authority may also re-evaluate the
7 developer's rate of return during the fifth year of any earlier phase.

8 (6) A transformative project receiving an incentive award
9 pursuant to this section, other than a project that includes 250,000
10 or more square feet of film studios, professional stages, television
11 studios, recording studios, screening rooms or other infrastructure
12 for film production, shall be located in an incentive area, a
13 distressed municipality, a government-restricted municipality, or an
14 enhanced area. A transformative project receiving an incentive
15 award pursuant to this section that includes 250,000 or more square
16 feet of film studios, professional stages, television studios,
17 recording studios, screening rooms or other infrastructure for film
18 production may be located anywhere in the State. **【No more than**
19 **two transformative projects receiving an incentive award pursuant**
20 **to this section shall be located in the same municipality.】** The
21 authority shall not consider an application for a transformative
22 project unless the applicant submits with its application a letter
23 evidencing support for the transformative project from the
24 governing body of the municipality in which the transformative
25 project is located.

26 c. The authority shall review the transformative project cost,
27 evaluate and validate the project financing gap estimated by the
28 developer, and conduct a State fiscal impact analysis to ensure that
29 the overall public assistance provided to the transformative project
30 will result in a net positive benefit to the State. In determining
31 whether a transformative project will result in a net positive benefit
32 to the State, the authority shall not consider the value of any taxes
33 exempted, abated, rebated, or retained under the "Five-Year
34 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
35 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
36 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
37 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
38 effect of lowering or eliminating the developer's State or local tax
39 liability. The determination made pursuant to this subsection shall
40 be based on the potential tax liability of the developer without
41 regard for potential tax losses if the developer were to locate in
42 another state. The authority shall assess the cost of these reviews to
43 the applicant. A developer shall pay to the authority the full
44 amount of the direct costs of an analysis concerning the developer's
45 application for an incentive award that a third party retained by the
46 authority performs, if the authority deems such retention to be
47 necessary. The authority shall evaluate the net economic benefits
48 on a present value basis under which the requested tax credit

1 allocation amount is discounted to present value at the same
2 discount rate as the projected benefits from the implementation of
3 the proposed transformative project for which an award of tax
4 credits is being sought. Projects that are predominantly residential
5 shall be excluded from the calculation of the net benefit test
6 required pursuant to this subsection.

7 d. In determining net benefits for any business or person
8 considering locating in a transformative project and applying to
9 receive from the authority any other economic development
10 incentive subsequent to the award of transformative project tax
11 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
12 authority shall not credit the business or person with any benefit
13 that was previously credited to the transformative project pursuant
14 to section 65 of P.L.2020, c.156 (C.34:1B-333).

15 e. The authority shall administer the credits awarded pursuant
16 to this section in accordance with the provisions of sections 62 and
17 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

18 f. Prior to allocating an incentive award to a developer, the
19 authority shall confirm with the Department of Labor and
20 Workforce Development, the Department of Environmental
21 Protection, and the Department of the Treasury that the developer is
22 in substantial good standing with the respective department, or the
23 developer has entered into an agreement with the respective
24 department that includes a practical corrective action plan, and the
25 developer shall certify that each contractor or subcontractor
26 performing work at the transformative project: (1) is registered as
27 required by "The Public Works Contractor Registration Act,"
28 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
29 by the Department of Labor and Workforce Development from
30 engaging in or bidding on Public Works Contracts in the State; and
31 (3) possesses a tax clearance certificate issued by the Division of
32 Taxation in the Department of the Treasury. The authority may also
33 contract with an independent third party to perform a background
34 check on the developer.

35 g. Notwithstanding the limitation on incentive awards set forth
36 in subsection b. of section 61 and section 98 of P.L.2020, c.156
37 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
38 allow a developer of a transformative project a tax credit **【**, as
39 reimbursement for certain project financing gap costs,**】** in an
40 amount not to exceed **【40】** the lesser of:

41 (1) (a) 70 percent of the total project cost for a transformative
42 project that is located in a government-restricted municipality;

43 (b) 60 percent of the total project cost for a residential
44 transformative project that receives a four-percent allocation from
45 the federal Low Income Housing Tax Credit Program administered
46 by the agency or a transformative project that is located in a
47 qualified incentive tract, enhanced area, or a municipality with a
48 Municipal Revitalization Index score of at least 50; or

1 (c) 50 percent of the total project cost [.] for any other
2 transformative project;

3 (2) the total value of the project financing gap [.] ; or

4 [\$350,000,000 whichever is less; provided, however,] (3)
5 \$400,000,000, except that for a transformative project that is
6 developed in phases, the [\$350,000,000] \$400,000,000 limitation
7 on incentive awards set forth in this [subsection] paragraph shall
8 apply to the total aggregate award for all phases of the
9 transformative project.

10 (cf: P.L.2021, c.160, s.29)

11
12 9. Section 67 of P.L.2020, c.156 (C.34:1B-335) is amended to
13 read as follows:

14 67. a. Notwithstanding the provisions of the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) [.] to the
16 contrary, except as otherwise provided in subsection b. of this
17 section, the chief executive officer of the authority may adopt,
18 immediately, upon filing with the Office of Administrative Law,
19 regulations that the chief executive officer deems necessary to
20 implement the provisions of sections 54 through 67 of P.L.2020,
21 c.156 (C.34:1B-322 through C.34:1B-335), which regulations shall
22 be effective for a period not to exceed 180 days from the date of the
23 filing. The chief executive officer shall thereafter amend, adopt, or
24 readopt the regulations in accordance with the requirements of
25 P.L.1968, c.410 (C.52:14B-1 et seq.).

26 b. Notwithstanding the provisions of the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
28 contrary, the chief executive officer of the authority shall, in
29 consultation with the agency, adopt, immediately, upon filing with
30 the Office of Administrative Law, such rules and regulations as the
31 chief executive officer deems necessary to implement the provisions
32 of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
33 C.34:1B-335), as amended and supplemented by P.L. .,
34 c. (C.) (pending before the Legislature as this bill), which
35 rules and regulations shall be effective for a period not to exceed
36 365 days after the date of the filing. Before the expiration of the
37 rules and regulations, the chief executive officer shall amend, adopt,
38 or readopt the rules and regulations in accordance with the
39 requirements of the "Administrative Procedure Act," P.L.1968,
40 c.410 (C.52:14B-1 et seq.).

41 (cf: P.L.2020, c.156, s.67)

42
43 10. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to
44 read as follows:

45 71. a. Beginning on the effective date of P.L.2020, c.156
46 (C.34:1B-269 et al.), but prior to March 1, [2027] 2029, to be
47 eligible for tax credits under the program, a business's chief

1 executive officer, or equivalent officer, shall demonstrate to the
2 authority at the time of application that:

3 (1) the business will make, acquire, or lease a capital investment
4 at the qualified business facility equal to or greater than the
5 applicable amount set forth in subsection b. of this section;

6 (2) the business will create or retain new and retained full-time
7 jobs in the State in an amount equal to or greater than the applicable
8 number set forth in subsection c. of this section;

9 (3) the qualified business facility is located in a qualified
10 incentive area;

11 (4) the award of tax credits will be a material factor in the
12 business's decision to create or retain the number of new and
13 retained full-time jobs set forth in its application;

14 (5) the award of tax credits, the capital investment resultant
15 from the award of tax credits, and the resultant creation and
16 retention of new and retained full-time jobs will yield a net positive
17 benefit to the State equaling at least 400 percent of the requested
18 tax credit allocation amount, or for a phased project the requested
19 tax credit allocation amount for the initial phase, and on a
20 cumulative basis each phase thereafter, which determination shall
21 be calculated prior to considering the value of the requested tax
22 credit under the program and shall be based on the benefits
23 generated during the period of time from approval through the end
24 of the commitment period, or through the end of the longer period
25 of extended commitment that the business may elect for purposes of
26 receiving credit for benefits projected to occur after the expiration
27 of the commitment period, except that:

28 (a) an award of tax credits to a business for a qualified business
29 facility located in a distressed municipality or an enhanced area
30 shall yield a net positive benefit to the State, based on the benefits
31 generated during the period of time from approval through the end
32 of the commitment period, that equals at least 300 percent of the
33 requested tax credit amount;

34 (b) an award of tax credits to a business for a qualified business
35 facility located in a government-restricted municipality, or for a
36 mega project, shall yield a net positive benefit to the State, based on
37 the benefits generated during the period of time from approval
38 through the end of the commitment period, that equals at least 200
39 percent of the requested tax credit amount;

40 (c) the net economic benefits shall be evaluated on a present
41 value basis with the requested tax credit allocation amount
42 discounted to present value at the same discount rate as the benefits
43 from capital investment resultant from the award of tax credits and
44 the resultant retention and creation of full-time jobs as provided in
45 subparagraph (d) of this paragraph; and

46 (d) a business may elect a period of extended commitment
47 beyond the commitment period for which time the economic
48 benefits shall be creditable to the determination of the net economic

1 benefit of the project, and a business electing a period of extended
2 commitment and failing to maintain the project through the
3 expiration of that extended commitment period shall be obligated to
4 repay a proportion of the incremental benefits received on account
5 of having extended the commitment period, taking into
6 consideration the number of years of extended commitment during
7 which the business maintained the project;

8 (e) in making the determination required pursuant to this
9 paragraph, the authority shall not consider the value of any taxes
10 exempted, abated, rebated, or retained under the "Five-Year
11 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
12 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
13 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
14 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
15 effect of lowering or eliminating the business's State or local tax
16 liability, and the business's chief executive officer or equivalent
17 officer shall certify, under the penalty of perjury, that all documents
18 submitted, and factual assertions made, to the authority to
19 demonstrate that the award of tax credits will yield a net positive
20 benefit to the State in accordance with this paragraph are true and
21 accurate at the time of submission;

22 (f) If, during the term of the program, the methodology used by
23 the authority in projecting benefits of a project in making the
24 determination required pursuant to this paragraph is modified, the
25 respective percentages by which the benefits must exceed the
26 requested tax credit allocation amount set forth pursuant to this
27 paragraph (5) may be adjusted to ensure consistent application of
28 the respective thresholds in this paragraph (5) applied to each
29 application;

30 (6) the qualified business facility shall be in compliance with
31 minimum environmental and sustainability standards;

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

35 (8) (a) each worker employed to perform construction work or
36 building services work at the qualified business facility shall be
37 paid not less than the prevailing wage rate for the worker's craft or
38 trade, as determined by the Commissioner of Labor and Workforce
39 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
40 and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

41 (i) the work performed under the contract is performed at a
42 qualified business facility owned by a landlord that is not a business
43 receiving authority assistance;

44 (ii) the landlord is a party to the construction contract, building
45 services contract, or both; and

46 (iii) the qualified business facility constitutes a lease of less than
47 35 percent of the entire facility at the time of contract and under any
48 agreement to subsequently lease the qualified business facility.

1 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
2 5.1), nothing in this paragraph shall be construed as requiring the
3 payment of prevailing wage for construction commencing more
4 than two years after the authority has issued the first certificate of
5 compliance pursuant to paragraph (2) of subsection a. of section 77
6 of P.L.2020, c.156 (C.34:1B-345).

7 b. (1) The minimum capital investment required to be eligible
8 under the program shall be as follows:

9 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
10 existing industrial, warehousing, logistics, or research and
11 development portion of the premises for continued similar use by
12 the business, a minimum investment of \$20 per square foot of gross
13 leasable area;

14 (b) for the new construction of an industrial, warehousing,
15 logistics, or research and development portion of the premises for
16 use by the business, a minimum investment of \$60 per square foot
17 of gross leasable area;

18 (c) for the rehabilitation, improvement, fit-out, or retrofit of
19 existing portion of the premises that does not qualify pursuant to
20 subparagraph (a) or (b) of this paragraph, a minimum investment of
21 \$40 per square foot of gross leasable area;

22 (d) for the new construction of a portion of the premises that
23 does not qualify pursuant to subparagraph (a) or (b) of this
24 paragraph, a minimum investment of \$120 per square foot of gross
25 leasable area; and

26 (e) for a small business, no new minimum capital investment
27 shall be required, provided the applicant has demonstrated evidence
28 satisfactory to the authority of its intent to remain in the State for
29 the commitment period.

30 (2) In the event the business invests less than that amount set
31 forth in paragraph (1) of this subsection in the qualified business
32 facility, the business shall donate the uninvested balance to the
33 infrastructure fund established pursuant to section 79 of P.L.2020,
34 c.156 (C.52:27D-520).

35 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
36 this subsection, the authority may adopt, pursuant to the provisions
37 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
38 1 et seq.), rules and regulations adjusting the minimum capital
39 investment amounts required under the program when necessary to
40 respond to the prevailing economic conditions in the State.

41 c. (1) The minimum number of new or retained full-time jobs
42 required to be eligible under the program shall be as follows:

43 (a) for a small business, 25 percent growth of its workforce with
44 new full-time jobs within the eligibility period in accordance with
45 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

46 (b) for a business engaged primarily in a targeted industry which
47 does not qualify as a small business, 25 new full-time jobs;

48 (c) for any other business, a minimum of 35 new full-time jobs;

1 (d) for a business eligible for new full-time jobs under
2 subparagraphs (b) or (c) of this paragraph, the business shall also be
3 eligible for retained full-time jobs in addition to the new full-time
4 jobs if the business will retain 150 retained full-time jobs when
5 locating in a government-restricted municipality, 250 retained full-
6 time jobs when locating in a qualified incentive tract or enhanced
7 area municipality, or 500 retained full-time jobs when locating
8 anywhere else in the State;

9 (e) for a business not eligible under subparagraphs (b), (c), or (d)
10 of this paragraph and locating in a qualified incentive tract,
11 enhanced area, or government-restricted municipality that will
12 retain 500 or more retained full-time jobs, a minimum of the
13 business's retained full-time jobs at the time of application;

14 (f) for a business not eligible under subparagraphs (b), (c), (d), or
15 (e) of this paragraph and located in the State that will retain 1,000
16 or more retained full-time jobs, a minimum of the business's
17 retained full-time jobs at the time of application.

18 (2) Notwithstanding the provisions of paragraph (1) of this
19 subsection, the authority may adopt, pursuant to the provisions of
20 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
21 seq.), rules and regulations adjusting the minimum number of new
22 or retained full-time jobs required under the program when
23 necessary to respond to the prevailing economic conditions in the
24 State.

25 d. A business that provides and adheres to a plan that
26 demonstrates that the qualified business facility is capable of
27 accommodating more than half of the business's new and retained
28 full-time employees as approved and that certifies, under the
29 penalty of perjury, that not less than 80 percent of the withholdings
30 of new and retained full-time jobs are subject to the "New Jersey
31 Gross Income Tax Act," N.J.S.54A:1-1 et seq. shall be eligible.
32 The requirements set forth in this subsection may be modified by
33 the authority to respond to an emergency, disaster, or other factors
34 that result in employees of an eligible business having to work from
35 a location other than the qualified business facility.

36 e. The chief executive officer of the business, or an equivalent
37 officer, shall certify that all factual representations made by the
38 business to the authority pursuant to subsection a. of this section are
39 true under the penalty of perjury.

40 f. A business eligible pursuant to this section may submit an
41 application to the authority in accordance with the provisions of
42 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
43 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
44 March 1, **[2027]** 2029.

45 (cf: P.L.2021, c.160, s.31)

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

3 98. a. The combined value of all tax credits awarded under the
4 "Historic Property Reinvestment Act," sections **【1】** 2 through 8 of
5 P.L.2020, c.156 **【(C.34:1B-269) (C.34:1B-270** through C.34:1B-
6 276); the **【"Brownfield】** "Brownfields Redevelopment Incentive
7 Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-
8 277 through C.34:1B-287); the "New Jersey Innovation Evergreen
9 Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288
10 through C.34:1B-302); the "Food Desert Relief Act," sections 35
11 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);
12 the "New Jersey Community-Anchored Development Act," sections
13 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-
14 321); the "New Jersey Aspire Program Act," sections 54 through 67
15 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); the
16 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
17 (C.34:1B-336 et al.); and section 6 of P.L.2010, c.57 (C.34:1B-
18 209.4) shall not exceed an overall cap of \$11.5 billion over a
19 **【seven-year】** nine-year period, subject to the conditions and
20 limitations set forth in this section. Of this \$11.5 billion, \$2.5
21 billion shall be reserved for transformative projects approved under
22 the Aspire Program.

23 b. (1) The total value of tax credits awarded under any
24 constituent program of the "New Jersey Economic Recovery Act of
25 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
26 following annual limitations, except as otherwise provided in
27 subsection c. of this section:

28 (a) for tax credits awarded under the "Historic Property
29 Reinvestment Act," sections **【1】** 2 through 8 of P.L.2020, c.156
30 **【(C.34:1B-269) (C.34:1B-270** through C.34:1B-276), the total
31 value of tax credits annually awarded during each of the first six
32 years of the **【seven-year】** nine-year period shall not exceed \$50
33 million;

34 (b) for tax credits awarded under the **【"Brownfield】**
35 "Brownfields Redevelopment Incentive Program Act," sections 9
36 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287),
37 the total value of tax credits annually awarded during each of the
38 first six years of the **【seven-year】** nine-year period shall not exceed
39 \$50 million;

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

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

6 (e) for tax credits awarded under the "New Jersey Community-
7 Anchored Development Act," sections 43 through 53 of P.L.2020,
8 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
9 credits annually awarded during each of the first six years of the
10 **【seven-year】** nine-year period shall not exceed \$200 million, except
11 that during each of the first six years of the **【seven-year】** nine-year
12 period, the authority shall annually award tax credits valuing no
13 greater than \$130 million for projects located in the 13 northern
14 counties of the State, and the authority shall annually award tax
15 credits valuing no greater than \$70 million for projects located in
16 the eight southern counties of the State. If during any of the first
17 six years of the **【seven-year】** nine-year period, the authority awards
18 tax credits in an amount less than the annual limitation for projects
19 located in northern counties or southern counties, as applicable, the
20 uncommitted portion of the annual limitation shall be available to
21 be deployed by the authority in a subsequent year, provided that the
22 uncommitted portion of tax credits shall be awarded for projects
23 located in the applicable geographic area, except that (i) after the
24 completion of the third year of the **【seven-year】** nine-year period,
25 the authority may deploy 50 percent of the uncommitted portion of
26 tax credits from any previous year without consideration to the
27 county in which a project is located; and (ii) after the completion of
28 the sixth year of the **【seven-year】** nine-year period, the authority
29 may deploy all available tax credits, including the uncommitted
30 portion of the annual limitation for any previous year, without
31 consideration to the county in which a project is located;

32 (f) for tax credits awarded under the "New Jersey Aspire
33 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
34 322 through C.34:1B-335), and the "Emerge Program Act," sections
35 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
36 including tax credits awarded for transformative projects, the total
37 value of tax credits annually awarded during each of the first six
38 years of the **【seven-year】** nine-year period shall not exceed \$1.1
39 billion. If the authority awards tax credits in an amount less than
40 the annual limitation, then the uncommitted portion of the annual
41 limitation shall be made available for qualified offshore wind
42 projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-
43 209.4), pursuant to subparagraph (h) of this paragraph, or New
44 Jersey studio partners and New Jersey film-lease partners awarded
45 under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and
46 C.54A:4-12b), pursuant to subparagraph (i) of this paragraph.
47 During each of the first six years of the **【seven-year】** nine-year

1 period, the authority shall annually award tax credits valuing no
2 greater than \$715 million for projects located in the northern
3 counties of the State, and the authority shall annually award tax
4 credits valuing no greater than \$385 million for projects located in
5 the southern counties of the State under the "New Jersey Aspire
6 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
7 322 through C.34:1B-335), and the "Emerge Program Act," sections
8 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during
9 any of the first six years of the **【seven-year】** nine-year period, the
10 authority awards tax credits under the "New Jersey Aspire Program
11 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322
12 through C.34:1B-335), and the "Emerge Program Act," sections 68
13 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount
14 less than the annual limitation for projects located in northern
15 counties or southern counties, as applicable, the uncommitted
16 portion of the annual limitation shall be available to be deployed by
17 the authority in a subsequent year, provided that the uncommitted
18 portion of tax credits shall be awarded for projects located in the
19 applicable geographic area, except that (i) after the completion of
20 the third year of the **【seven-year】** nine-year period, the authority
21 may deploy 50 percent of the uncommitted portion of tax credits for
22 any previous year without consideration to the county in which a
23 project is located; and (ii) after the completion of the sixth year of
24 the **【seven-year】** nine-year period, the authority may deploy all
25 available tax credits, including the uncommitted portion of the
26 annual limitation for any previous year, without consideration to the
27 county in which a project is located;

28 (g) except as provided in subparagraph (j) of this paragraph, for
29 tax credits awarded for transformative projects under the "New
30 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
31 c.156 (C.34:1B-322 through C.34:1B-335), the total value of tax
32 credits awarded during the **【seven-year】** nine-year period shall not
33 exceed \$2.5 billion. The total value of tax credits awarded for
34 transformative projects in a given year shall not be subject to an
35 annual limitation, except that the total value of tax credits awarded
36 to any transformative project shall not exceed **【\$350】** \$400 million;

37 (h) from the tax credits made available, pursuant to
38 subparagraph (f) of this paragraph, to the "New Jersey Aspire
39 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
40 322 through C.34:1B-335), and the "Emerge Program Act," sections
41 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
42 including tax credits awarded for transformative projects, an
43 amount not to exceed \$350,000,000 shall be made available for
44 qualified offshore wind projects awarded a credit pursuant to
45 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
46 years of the **【seven-year】** nine-year period; **【and】**

1 (i) beginning in fiscal year 2025, from the tax credits made
2 available, pursuant to subparagraph (f) of this paragraph, to the
3 "New Jersey Aspire Program Act," sections 54 through 67 of
4 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
5 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
6 (C.34:1B-336 et al.), not including tax credits awarded for
7 transformative projects, additional amounts shall be made available
8 for New Jersey studio partners and New Jersey film-lease partners
9 pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and
10 C.54A:4-12b); and

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

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

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

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

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

1 (iv) opportunities for project applications to strengthen or protect
2 the competitiveness of the state under the prevailing market
3 conditions;

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

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

10 (vii) increased development proximate to mass transit facilities;

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

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

22 (cf: P.L.2021, c.160, s.47)

23

24 12. (New section) a. (1) Except as otherwise provided in
25 subsection b. of this section, all program applications completed
26 after the effective date of P.L. , c. (C.) (pending before the
27 Legislature as this bill) shall be subject to the “New Jersey Aspire
28 Program Act,” sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
29 322 through C.34:1B-335), as amended as supplemented by P.L. ,
30 c. (C.) (pending before the Legislature as this bill),
31 including the rules and regulations adopted pursuant to subsection
32 b. of section 67 of P.L.2020, c.156 (C.34:1B-335).

33 (2) Except as otherwise provided in subsection b. of this section,
34 all program applications completed on or before the effective date
35 of P.L. , c. (C.) (pending before the Legislature as this
36 bill) shall be subject to the provisions of the “New Jersey Aspire
37 Program Act,” sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
38 322 through C.34:1B-335), as such provisions remained in effect
39 immediately before the effective date of P.L. , c. (C.)
40 (pending before the Legislature as this bill), including the rules and
41 regulations adopted pursuant to subsection a. of section 67 of
42 P.L.2020, c.156 (C.34:1B-335).

43 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-
44 269 et al.) to the contrary, if a completed application for a
45 residential project is submitted to the authority on or before the
46 121st calendar day next following effective date of P.L. ,
47 c. (C.) (pending before the Legislature as this bill), the
48 applicant for the residential project has received all applicable

1 approvals pursuant to the “Municipal Land Use Law,” P.L.1975,
2 c.291 (C.40:55D-1 et seq.) on or before the 121st calendar day next
3 following the effective date of P.L. , c. (C.) (pending
4 before the Legislature as this bill), and the applicant submits written
5 notice to the authority, before the authority’s approval or denial of
6 the application, electing for the application to be governed under
7 the provisions of this subsection, then the residential units
8 constructed for occupancy by low- and moderate-income
9 households within the residential project shall not be subject to the
10 affordability controls adopted by the authority, in consultation with
11 the agency, pursuant to paragraph (2) of subsection a. of section 56
12 of P.L.2020, c.156 (C.34:1B-324) and subsection b. of section 67 of
13 P.L.2020, c.156 (C.34:1B-335). In this event, the application for
14 the residential project shall be reviewed, approved, and
15 administered in accordance with the provisions of the “New Jersey
16 Aspire Program Act,” sections 54 through 67 of P.L.2020, c.156
17 (C.34:1B-322 through C.34:1B-335), as such provisions remained
18 in effect immediately before the effective date of P.L. ,
19 c. (C.) (pending before the Legislature as this bill), including
20 the rules and regulations adopted pursuant to subsection a. of
21 section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
22 application shall be subject to:

23 (1) the determination of a reasonable and appropriate return on
24 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-
25 323), as amended by P.L. , c. (pending before the Legislature as
26 this bill); and

27 (2) the limitation on tax credit awards set forth in subsection b.
28 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
29 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
30 amended by P.L. , c. (pending before the Legislature as this
31 bill).

32

33 13. (New section) If an applicant has submitted a completed
34 program application that is pending approval by the authority on the
35 effective date of P.L. , c. (C.) (pending before the
36 Legislature as this bill), the applicant may withdraw the application
37 at any time before the authority approves or denies the application.
38 If the applicant withdraws the application, the authority shall return
39 all application fees paid by the applicant, and the withdrawal shall
40 not serve to prejudice the consideration of any program application
41 submitted by the applicant thereafter.

42

43 14. This act shall take effect immediately.

44

45 STATEMENT

46

47 This bill provides various changes to the New Jersey Aspire
48 Program (Aspire Program), which is administered by the New

1 Jersey Economic Development Authority (EDA) and was enacted as
2 part of the “New Jersey Economic Recovery Act of 2020.”

3 Under the Aspire Program, the EDA awards tax credits to the
4 developers of certain redevelopment projects, which projects would
5 not be economically feasible absent such subsidies, and which
6 projects meet certain other requirements. In turn, these developers
7 are required to comply with certain additional requirements
8 concerning the development of these projects, including, but not
9 limited to, the dedication of affordable housing in new residential
10 projects. Under current law, the total tax credits awarded for any
11 redevelopment project may not exceed certain statutory limitations,
12 except that the EDA may provide larger tax credit awards for
13 “transformative projects,” which meet certain eligibility criteria,
14 and which are also subject to statutory limitations on tax credit
15 awards.

16 The bill also revises other provisions of the “New Jersey
17 Economic Recovery Act of 2020,” including extending the period in
18 which other economic development programs, including the Emerge
19 Program, would remain in operation and authorizing the transfer of
20 certain tax credits otherwise available for the Aspire Program and
21 Emerge Program.

22

23 *Limitations on Tax Credit Awards*

24 The bill revises the maximum amounts of tax credits that may be
25 awarded to redevelopment projects and transformative projects
26 under the Aspire Program.

27 Under current law, the developer of a redevelopment project may
28 receive tax credits under the Aspire Program up to the following
29 amounts, subject to certain other limitations: (1) 60 percent of the
30 total project costs for any residential project that also receives
31 federal four-percent low income housing tax credits (LIHTCs), up
32 to \$60 million; (2) 50 percent of total project costs for any
33 commercial project located in a government-restricted municipality,
34 up to \$60 million; and (3) 45 percent of total project costs for any
35 other project, up to \$60 million if the project is located in a
36 qualified incentive tract, government-restricted municipality, or
37 municipality with a Municipal Revitalization Index distress score of
38 at least 50, or up to \$42 million if located elsewhere.

39 Instead, the bill provides that a redevelopment project may
40 receive tax credits up to the following amounts, subject to certain
41 other limitations: (1) 70 percent of total project costs for any project
42 located in a government-restricted municipality, up to \$120 million;
43 (2) 60 percent of total project costs for any residential project that
44 also receives LIHTCs or any redevelopment project located in a
45 qualified incentive tract, enhanced area, or a municipality with a
46 Municipal Revitalization Index score of at least 50, up to \$90
47 million; and (3) 50 percent of total project costs for any other
48 project, up to \$60 million.

1 Similarly, the bill provides that transformative projects may
2 receive tax credits equal to the lesser of \$400 million, the total
3 value of the project financing gap, or the following amounts: (1) 70
4 percent of total project costs for any transformative project located
5 in a government-restricted municipality; (2) 60 percent of the total
6 project costs for any residential transformative project that also
7 receives LIHTCs or any transformative project located in a
8 qualified incentive tract, enhanced area, or a municipality with a
9 Municipal Revitalization Index score of at least 50; or (3) 50
10 percent of total project costs for any other transformative project.
11 Under current law, all transformative projects are entitled to receive
12 tax credits up to 40 percent of the total project costs, the total value
13 of the project financing gap, or \$350 million, whichever is less.
14

15 *Eligibility Requirements for Commercial Projects*

16 The bill revises certain eligibility requirements for commercial
17 projects under the Aspire Program. Currently, a commercial project
18 is required to contain at least 100,000 square feet of commercial or
19 industrial space to qualify for the program. The bill reduces these
20 square footage requirements to at least 25,000 square feet for any
21 commercial project located in a government-restricted municipality
22 or 50,000 square feet for any other commercial project, except in
23 the case of health care or health services centers.

24 The bill also revises the eligibility criteria applicable to
25 commercial projects that include a health care or health services
26 center. Notably, the bill amends the existing definition of “health
27 care or health services center” to require these establishments to:
28 (1) contain not less than 10,000 square feet devoted to health care
29 or health services, where patients may be admitted for or seek
30 medical examination and treatment; and (2) be located within a
31 municipality that lacks adequate access to health care services, as
32 annually determined by the Commissioner of Health.
33 Notwithstanding the default square footage requirements for
34 commercial projects, the bill also provides that any redevelopment
35 project that is comprised solely of a health care or health services
36 center, and which contains not less than 10,000 square feet devoted
37 to health care or health services, would also qualify as a commercial
38 project under the Aspire Program. The bill also provides that if a
39 commercial project is comprised solely of a health care or health
40 services center, the health care or health services center is required
41 to comply with certain requirements concerning total project cost in
42 order for the project to qualify for a tax credit.

1 *Requirements for Residential Projects*

2 The bill revises certain requirements of the Aspire Program
3 concerning the approval of residential projects, including the
4 affordability controls that would be required within these projects.

5 Under current law, the developer of a new residential project is
6 required under the Aspire Program to reserve certain residential
7 units for low- and moderate-income housing. Current law requires
8 these residential units to be subject to affordability controls, as
9 required under the State's "Fair Housing Act," which affordability
10 controls have been adopted by the New Jersey Housing and
11 Mortgage Finance Agency (HMFA) and are known as the "Uniform
12 Housing Affordability Controls" (UHAC rules). However, these
13 rules do not apply to residential projects that receive federal
14 LIHTCs. As a result, residential projects that receive funding
15 through both the Aspire Program and the federal LIHTC Program
16 are generally not required to comply with the UHAC rules.

17 The bill revises the affordability controls that would apply to
18 residential projects under the Aspire Program. Specifically, the bill
19 requires the EDA, in consultation with the HMFA, to adopt rules
20 and regulations concerning the establishment and administration of
21 affordability controls for residential projects under the program,
22 including, but not limited to, residential projects that utilize federal
23 LIHTCs. At a minimum, these affordability controls would be
24 required to comply with the requirements of the UHAC rules, as in
25 effect upon the date of enactment of this bill, including any
26 requirements concerning the bedroom distributions, affordability
27 averages, affirmative marketing, and the long-term deed restriction
28 of residential units. However, the bill provides an exemption for
29 these bedroom distribution requirements for any residential project
30 that receives the federal historic rehabilitation tax credit or a State
31 tax credit under the "Historic Property Reinvestment Act."

32 The bill also provides that when all residential units constructed
33 in a residential project are reserved for occupancy by low- and
34 moderate-income households, the calculation of total project costs
35 for the project would also include the developer fees paid before
36 acquiring permanent financing, as well as the deferred developer
37 fees pursuant to the rules established by the agency.

38

39 *Transformative Projects*

40 The bill revises several requirements of the Aspire Program
41 concerning the eligibility and approval of transformative projects.

42 Under current law, a redevelopment project is required to meet
43 the following criteria in order to qualify as a transformative project:
44 (1) have a project financing gap; (2) incur total project costs of at
45 least \$100 million; (3) contain 500,000 or more square feet of new
46 or substantially renovated industrial, commercial, or residential
47 space, except for projects which may include 250,000 or more
48 square feet of film studios, professional stages, television studios,

1 recording studios, screening rooms, or other infrastructure for film
2 production (“film-related space”); and (4) demonstrate a “special
3 economic importance” to the State, as measured by certain State
4 priorities determined by the EDA.

5 The bill establishes reduced square footage requirements for
6 certain transformative projects, as follows: (1) 200,000 or more
7 square feet of new or substantially renovated industrial,
8 commercial, or residential space for a project located in a
9 government-restricted municipality; and (2) 300,000 or more square
10 feet of new or substantially renovated industrial, commercial, or
11 residential space for a project located in an enhanced area. The bill
12 maintains the existing square footage requirements for any
13 transformative projects that do not meet these criteria.

14 Additionally, the bill increases the total project cost requirements
15 for transformative projects from \$100 million to \$150 million. The
16 bill also provides that only commercial projects would be required
17 to demonstrate a “special economic importance” in order to qualify
18 as transformative projects. However, when a redevelopment project
19 is located entirely on land designated as a brownfield development
20 area, and the project includes at least \$15 million in environmental
21 remediation costs, the bill provides that the redevelopment project
22 would be deemed to constitute a “special economic importance.”

23 Under current law, a residential project or mixed-use project that
24 qualifies as a transformative project is required to contain a
25 minimum number of residential units, which amounts vary
26 depending on the location of the project. The bill reduces the
27 number of residential units that are required to be included in these
28 projects. The bill also reduces the amount of commercial space,
29 from 100,000 square feet to 50,000 square feet, that is required to
30 be constructed within a residential project that includes less than
31 700 new residential units.

32 Under the bill, all transformative projects would be required to
33 be completed, and the developer would be required to receive a
34 certificate of occupancy for the project within five years of
35 executing the incentive award agreement. However, for a
36 transformative project completed in phases, the developer is
37 required to complete the project and receive a certificate of
38 occupancy for all phases of the project within 10 years of executing
39 either the incentive award agreement or the first transformative
40 phase agreement. Currently, all redevelopment projects are
41 required to be completed and receive certificates of occupancy
42 within four years, except that transformative projects that are
43 completed in phases are required to be completed within eight
44 years.

45 The bill removes the limitation on the number of transformative
46 projects that may be located within one municipality. Currently, the
47 EDA cannot award tax credits to more than two transformative
48 projects located within the same municipality.

1 *Additional Conditions of Incentive Award*

2 The bill revises several requirements of the Aspire Program,
3 which the developer of a redevelopment project may be required to
4 satisfy as a condition of receiving an incentive award.

5 Notably, the bill revises the circumstances in which a developer
6 would be exempt from the requirement to enter into a community
7 benefits agreement. Under current law, a developer that is
8 otherwise required to enter into a community benefits agreement is
9 exempt from this requirement when the developer provides the
10 EDA with an approval letter or redevelopment agreement, which is
11 certified by the municipality in which the project is located and
12 which includes provisions that meet or exceed the standards
13 required for community benefits agreements. Under the bill, the
14 developer would be considered to have met the requirements of the
15 community benefits agreement if the developer submits a resolution
16 to the EDA, which resolution was adopted by the governing body of
17 the municipality in which the redevelopment project is located after
18 at least one public hearing. Specifically, the resolution would be
19 required to state that the governing body has determined that the
20 redevelopment project will provide economic and social benefits to
21 the community that fulfill certain purposes, which benefits render a
22 separate community benefit agreement unnecessary, and explain the
23 reasons supporting the governing body's determination.

24 Additionally, the bill expands the allowance for certain
25 redevelopment projects to demonstrate a reduced net positive
26 benefit to the State. Currently, the developer of a redevelopment
27 project is required to demonstrate to the EDA that the award of tax
28 credits will result in a net positive benefit to the State in an amount
29 determined by the EDA, except not less than the amount of
30 requested tax credits. However, current law allows this net benefit
31 requirement to be reduced by up to 35 percentage points for any
32 project that is located in a government-restricted municipality.
33 Under the bill, this reduction in the net benefit requirement would
34 also apply to: (1) any commercial project that contains 50,000 or
35 more square feet of space devoted to research or technology focused
36 incubator and conferencing facilities for one or more institutions of
37 higher education or non-profit organizations, and which has a total
38 project cost of not less than \$50 million; and (2) any redevelopment
39 project that is predominantly commercial and that receives a federal
40 historic rehabilitation tax credit or a State tax credit under the
41 "Historic Property Reinvestment Act."

42 The bill also provides that the EDA may set a reduced net benefit
43 requirement for any redevelopment project that is undertaken by a
44 major cultural institution to renovate existing space or expand
45 services into additional space, and in which the major cultural
46 institution realizes all returns from the redevelopment project. As
47 defined in the bill, a "major cultural institution" includes any public
48 or nonprofit institution, except for an institution of higher

1 education, within this State that engages in the cultural, intellectual,
2 scientific, environmental, educational, or artistic enrichment of the
3 people of this State, and which institution is designated by the board
4 of the EDA as a major cultural institution.

5 The bill also provides an exception to the existing requirement
6 for certain workers, who are employed to perform building services
7 work at a redevelopment project, to be paid not less than the
8 prevailing wage rate. Under the bill, this requirement would not
9 apply to workers who are employed to perform building services
10 work by a tenant that has a leasehold interest in a redevelopment
11 project, which leasehold interest encompasses less than 5,000
12 square feet of space.

13

14 *Miscellaneous Program Changes*

15 The bill amends several other provisions of law governing the
16 Aspire Program, including expanding the scope of eligible incentive
17 areas under the program. Specifically, the bill amends the
18 definition of “incentive area” to also include any area designated as
19 a brownfield site pursuant to the "Brownfield and Contaminated
20 Site Remediation Act," provided that any portion of the brownfield
21 site is located in an area that otherwise qualifies as an incentive
22 area.

23 The bill also clarifies certain provisions of law governing the
24 duration of eligibility periods under the Aspire Program. Under
25 current law, after the EDA has approved an application for the
26 Aspire Program, the EDA is responsible for entering into an
27 incentive award agreement with the developer of the redevelopment
28 project. The incentive award agreement specifies the amount of the
29 tax credit award and the duration of the eligibility period, which
30 period may not exceed 15 years for a commercial or mixed-use
31 project or 10 years for a residential project. To reduce the total
32 value of tax credits needed to reimburse a developer for all or part
33 of the project financing gap of a redevelopment project, the bill
34 permits the EDA, in its discretion, to approve a duration for the
35 eligibility period that is shorter than the applicable maximum
36 periods.

37 Additionally, the bill requires the incentive award agreement to
38 include one or more provisions, as determined by the EDA,
39 concerning the terms and conditions for default and the remedies
40 for the developer of a redevelopment project in the event of default.
41 However, the EDA would not be permitted to declare a cross-
42 default when the developer of a redevelopment project, including
43 any business affiliate of the developer or any other entity with
44 common principals as the developer, defaults on any other
45 assistance program administered by the EDA.

46 The bill also amends current law to define the term “reasonable
47 and appropriate return on investment” under the Aspire Program,
48 which concept is used to determine a developer’s project financing

1 gap. In general, the bill defines this term in a manner consistent
2 with existing regulations. However, for any residential project that
3 utilizes federal LIHTCs and generates returns on equity other than
4 federal or local grants or proceeds from the sale of federal or local
5 tax credits, the bill provides that the calculation of “reasonable and
6 appropriate return on investment” would be based on both: (1) the
7 discount rate at which the present value of the future cash flows of
8 an investment equal the cost of the investment; and (2) with respect
9 only to the units financed with LIHTCs, the approval of deferred
10 developer fees pursuant to the rules established by the HMFA.

11 The bill also directs the Chief Executive Officer of the EDA to
12 adopt rules and regulations to implement the provisions of the
13 Aspire Program, as modified by this bill. Under the bill, these rules
14 and regulations would take effect immediately upon filing with the
15 Office of Administrative Law and would remain in effect for one
16 year. Thereafter, before the expiration of these rules and
17 regulations, the EDA would be required to amend, adopt, or readopt
18 rules and regulations in accordance with the “Administrative
19 Procedure Act.”

20

21 *Applicability to Prior and Future Applications*

22 Except in certain circumstances, the bill provides that all Aspire
23 Program applications completed after the date of enactment of this
24 bill would be subject to the provisions of this bill, including any
25 rules and regulations adopted by the EDA thereunder. In contrast,
26 all program applications completed on or before the enactment of
27 the bill would be subject to the existing provisions of law and
28 regulation governing the Aspire Program, except in certain
29 circumstances.

30 However, if a completed application for a residential project was
31 submitted within 121 days after the date of enactment, the applicant
32 receives all applicable approvals for the project under the
33 “Municipal Land Use Law” within such period, and the applicant
34 submits written notice to the EDA, the bill provides that the
35 application would be subject to some, but not all, of the provisions
36 of this bill. In this event, the bill requires the application to be
37 reviewed, approved, and administered in accordance with the
38 existing provisions of law and regulation governing the Aspire
39 Program, except for: (1) the determination of “reasonable and
40 appropriate return on investment,” as defined in the bill; and (2) the
41 limitations on total tax credit awards, as increased by the bill.

42 Additionally, the bill permits certain applicants to withdraw
43 pending applications for the Aspire Program. Specifically, an
44 applicant may withdraw any completed application that is pending
45 approval by the EDA on the date of enactment of this bill at any
46 time before the EDA approves or denies the application. In this
47 event, the EDA would be required to return all application fees paid
48 by the applicant, and the withdrawal may not serve to prejudice the

1 consideration of any program application submitted by the applicant
2 thereafter.

3

4 *Other Changes to “New Jersey Economic Recovery Act of 2020”*

5 The bill also provides additional changes to the “New Jersey
6 Economic Recovery Act of 2020,” which established the Aspire
7 Program, as well as several other economic development programs.
8 Under current law, the total value of tax credits awarded under
9 these economic development programs is limited to \$11.5 billion
10 over a seven-year period. The law also limits the amount of tax
11 credits that may be annually awarded under each of these programs
12 during certain years within this seven-year period.

13 Notably, the bill amends the “New Jersey Economic Recovery
14 Act of 2020” to increase the duration of this period from seven
15 years to nine years, thereby extending the period of operation of
16 these programs. As a part of this change, the bill also extends the
17 statutory deadline to apply for tax credits under the Emerge
18 Program from March 1, 2027 to March 1, 2029.

19 Additionally, the bill permits the EDA to annually transfer
20 certain tax credits otherwise allocated to the Aspire Program and
21 Emerge Program. Under current law, the total value of tax credits
22 to be awarded under the Aspire Program and Emerge Program, not
23 including transformative projects, may not exceed \$1.1 billion per
24 year over a six-year period, subject to certain carry-forward
25 authorizations. Current law also provides that the total value of tax
26 credits to be awarded for transformative projects under the Aspire
27 Program may not exceed an aggregate balance of \$2.5 billion.

28 Specifically, the bill provides that beginning in State Fiscal Year
29 2024, the EDA may transfer, from the annual allotment of tax
30 credits for the Aspire Program and Emerge Program, an amount not
31 to exceed \$500 million in tax credits for transformative projects
32 under the Aspire Program, provided that: (1) the remaining
33 allocation of tax credits otherwise available for transformative
34 projects is less than \$1 billion; and (2) the board of the EDA
35 determines that the transfer of tax credits is warranted based on
36 such criteria as the authority deems appropriate. However, if the
37 EDA elects to transfer these tax credits, the bill requires the EDA to
38 award no greater than 65 percent of the transferred tax credits to
39 transformative projects located in the northern counties of the State
40 and no greater than 35 percent of the transferred tax credits to
41 transformative projects located in the southern counties of the State.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5644

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 27, 2023

The Assembly Budget Committee reports favorably Assembly Bill No. 5644, with committee amendments.

As amended and reported, this bill provides various changes to the New Jersey Aspire Program (Aspire Program), which is administered by the New Jersey Economic Development Authority (EDA) and was enacted as part of the “New Jersey Economic Recovery Act of 2020.”

Under the Aspire Program, the EDA awards tax credits to the developers of certain redevelopment projects, which projects would not be economically feasible absent such subsidies, and which projects meet certain other requirements. In turn, these developers are required to comply with certain additional requirements concerning the development of these projects, including, but not limited to, the dedication of affordable housing in new residential projects. Under current law, the total tax credits awarded for any redevelopment project may not exceed certain statutory limitations, except that the EDA may provide larger tax credit awards for “transformative projects,” which meet certain eligibility criteria, and which are also subject to statutory limitations on tax credit awards.

The bill also revises other provisions of the “New Jersey Economic Recovery Act of 2020,” including extending the period in which other economic development programs, including the Emerge Program, would remain in operation and authorizing the transfer of certain tax credits otherwise available for the Aspire Program and Emerge Program.

Limitations on Tax Credit Awards

The bill revises the maximum amounts of tax credits that may be awarded to redevelopment projects and transformative projects under the Aspire Program.

Under current law, the developer of a redevelopment project may receive tax credits under the Aspire Program up to the following amounts, subject to certain other limitations: (1) 60 percent of the total project costs for any residential project that also receives federal four-percent low income housing tax credits (LIHTCs), up

to \$60 million; (2) 50 percent of total project costs for any commercial project located in a government-restricted municipality, up to \$60 million; and (3) 45 percent of total project costs for any other project, up to \$60 million if the project is located in a qualified incentive tract, government-restricted municipality, or municipality with a Municipal Revitalization Index distress score of at least 50, or up to \$42 million if located elsewhere.

Instead, the bill provides that a redevelopment project may receive tax credits up to the following amounts, subject to certain other limitations: (1) 80 percent of total project costs for any project located in a government-restricted municipality, up to \$120 million; (2) 60 percent of total project costs for any residential project that also receives LIHTCs or any redevelopment project located in a qualified incentive tract, enhanced area, or a municipality with a Municipal Revitalization Index score of at least 50, up to \$90 million; and (3) 50 percent of total project costs for any other project, up to \$60 million.

Similarly, the bill provides that transformative projects may receive tax credits equal to the lesser of \$400 million, the total value of the project financing gap, or the following amounts: (1) 80 percent of total project costs for any transformative project located in a government-restricted municipality; (2) 60 percent of the total project costs for any residential transformative project that also receives LIHTCs or any transformative project located in a qualified incentive tract, enhanced area, or a municipality with a Municipal Revitalization Index score of at least 50; or (3) 50 percent of total project costs for any other transformative project. Under current law, all transformative projects are entitled to receive tax credits up to 40 percent of the total project costs, the total value of the project financing gap, or \$350 million, whichever is less.

Eligibility Requirements for Commercial Projects

The bill revises certain eligibility requirements for commercial projects under the Aspire Program. Currently, a commercial project is required to contain at least 100,000 square feet of commercial or industrial space to qualify for the program. The bill reduces these square footage requirements to at least 25,000 square feet for any commercial project located in a government-restricted municipality or 50,000 square feet for any other commercial project, except in the case of health care or health services centers.

The bill also revises the eligibility criteria applicable to commercial projects that include a health care or health services center. Notably, the bill amends the existing definition of “health care or health services center” to require these establishments to: (1) contain not less than 10,000 square feet devoted to health care or health services, where patients may be admitted for or seek medical examination and treatment; and (2) be located within a

municipality with a Municipal Revitalization Index distress score or at least 50, a distressed municipality, or a qualified incentive tract. Notwithstanding the default square footage requirements for commercial projects, the bill also provides that any redevelopment project that is comprised solely of a health care or health services center, and which contains not less than 10,000 square feet devoted to health care or health services, would also qualify as a commercial project under the Aspire Program. The bill also provides that if a commercial project is comprised solely of a health care or health services center, the health care or health services center is required to comply with certain requirements concerning total project cost in order for the project to qualify for a tax credit.

Requirements for Residential Projects

The bill revises certain requirements of the Aspire Program concerning the approval of residential projects, including the affordability controls that would be required within these projects.

Under current law, the developer of a new residential project is required under the Aspire Program to reserve certain residential units for low- and moderate-income housing. Current law requires these residential units to be subject to affordability controls, as required under the State's "Fair Housing Act," which affordability controls have been adopted by the New Jersey Housing and Mortgage Finance Agency (HMFA) and are known as the "Uniform Housing Affordability Controls" (UHAC rules). However, these rules do not apply to residential projects that receive federal LIHTCs. As a result, residential projects that receive funding through both the Aspire Program and the federal LIHTC Program are generally not required to comply with the UHAC rules.

The bill revises the affordability controls that would apply to residential projects under the Aspire Program. Specifically, the bill requires the EDA, in consultation with the HMFA, to adopt rules and regulations concerning the establishment and administration of affordability controls for residential projects under the program, including, but not limited to, residential projects that utilize federal LIHTCs. At a minimum, these affordability controls would be required to comply with the requirements of the UHAC rules, as in effect upon the date of enactment of this bill, including any requirements concerning the bedroom distributions, affordability averages, affirmative marketing, and the long-term deed restriction of residential units. However, the bill provides an exemption for these bedroom distribution requirements for any residential project that receives the federal historic rehabilitation tax credit or a State tax credit under the "Historic Property Reinvestment Act."

The bill also provides that when all residential units constructed in a residential project are reserved for occupancy by low- and moderate-income households, the calculation of total project costs

for the project would also include the developer fees paid before acquiring permanent financing, as well as the deferred developer fees pursuant to the rules established by the agency.

Transformative Projects

The bill revises several requirements of the Aspire Program concerning the eligibility and approval of transformative projects.

Under current law, a redevelopment project is required to meet the following criteria in order to qualify as a transformative project: (1) have a project financing gap; (2) incur total project costs of at least \$100 million; (3) contain 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space, except for projects which may include 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production (“film-related space”); and (4) demonstrate a “special economic importance” to the State, as measured by certain State priorities determined by the EDA.

The bill establishes reduced square footage requirements for certain transformative projects, as follows: (1) 200,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in a government-restricted municipality; and (2) 300,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in an enhanced area. The bill maintains the existing square footage requirements for any transformative projects that do not meet these criteria.

Additionally, the bill increases the total project cost requirements for transformative projects from \$100 million to \$150 million. The bill also provides that only commercial projects would be required to demonstrate a “special economic importance” in order to qualify as transformative projects. However, when a redevelopment project is located entirely on land designated as a brownfield development area, and the project includes at least \$15 million in environmental remediation costs, the bill provides that the redevelopment project would be deemed to constitute a “special economic importance.”

Under current law, a residential project or mixed-use project that qualifies as a transformative project is required to contain a minimum number of residential units, which amounts vary depending on the location of the project. The bill reduces the number of residential units that are required to be included in these projects. The bill also reduces the amount of commercial space, from 100,000 square feet to 50,000 square feet, that is required to be constructed within a residential project that includes fewer than 700 new residential units.

Under the bill, all transformative projects would be required to be completed, and the developer would be required to receive a

certificate of occupancy for the project, within five years of executing the incentive award agreement, except that the EDA may, in its discretion, extend this period by up to one additional year. However, for a transformative project completed in phases, the developer is required to complete the project and receive a certificate of occupancy for all phases of the project within 10 years of executing either the incentive award agreement or the first transformative phase agreement. Currently, all redevelopment projects are required to be completed and receive certificates of occupancy within four years, except that transformative projects that are completed in phases are required to be completed within eight years.

The bill removes the limitation on the number of transformative projects that may be located within one municipality. Currently, the EDA cannot award tax credits to more than two transformative projects located within the same municipality.

Additional Conditions of Incentive Award

The bill revises several requirements of the Aspire Program, which the developer of a redevelopment project may be required to satisfy as a condition of receiving an incentive award.

Notably, the bill revises the circumstances in which a developer would be exempt from the requirement to enter into a community benefits agreement. Under current law, a developer that is otherwise required to enter into a community benefits agreement is exempt from this requirement when the developer provides the EDA with an approval letter or redevelopment agreement, which is certified by the municipality in which the project is located and which includes provisions that meet or exceed the standards required for community benefits agreements. Under the bill, the developer would be considered to have met the requirements of the community benefits agreement if the developer submits a resolution to the EDA, which resolution was adopted by the governing body of the municipality in which the redevelopment project is located after at least one public hearing. Specifically, the resolution would be required to state that the governing body has determined that the redevelopment project will provide economic and social benefits to the community that fulfill certain purposes, which benefits render a separate community benefits agreement unnecessary, and explain the reasons supporting the governing body's determination. The bill also exempts any residential project that is located in a government-restricted municipality, and in which 100 percent of the residential units constructed in the residential project are reserved for occupancy by low- and moderate-income households, from the requirement to enter into a community benefits agreement.

Additionally, the bill expands the allowance for certain redevelopment projects to demonstrate a reduced net positive

benefit to the State. Currently, the developer of a redevelopment project is required to demonstrate to the EDA that the award of tax credits will result in a net positive benefit to the State in an amount determined by the EDA, except not less than the amount of requested tax credits. However, current law allows this net benefit requirement to be reduced by up to 35 percentage points for any project that is located in a government-restricted municipality. Under the bill, this reduction in the net benefit requirement would also apply to: (1) any commercial project that contains 50,000 or more square feet of space devoted to research or technology focused incubator and conferencing facilities for one or more institutions of higher education or non-profit organizations, and which has a total project cost of not less than \$50 million; (2) any redevelopment project that is predominantly commercial and that receives a federal historic rehabilitation tax credit or a State tax credit under the “Historic Property Reinvestment Act”; and (3) any commercial project that is located on land owned by the federal government on or before December 31, 2005.

The bill also provides that the EDA may set a reduced net benefit requirement for any redevelopment project that is undertaken by a major cultural institution to renovate existing space or expand services into additional space, and in which the major cultural institution realizes all returns from the redevelopment project. As defined in the bill, a “major cultural institution” includes any public or nonprofit institution, except for an institution of higher education, within this State that engages in the cultural, intellectual, scientific, environmental, educational, or artistic enrichment of the people of this State, and which institution is designated by the board of the EDA as a major cultural institution.

The bill also revises certain provisions of the Aspire Program concerning the prevailing wage requirement for persons employed to perform building services work. Under the bill, this requirement would not apply to workers who are employed to perform building services work by a commercial tenant, commercial subtenant, or other commercial occupant that has a leasehold interest or other occupancy right in a redevelopment project, which leasehold interest or other occupancy right encompasses less than 5,000 square feet of space. The bill also requires all leases, subleases, or other commercial occupancy agreements applicable to a redevelopment program to include a provision, in a form acceptable to the EDA, which sets forth the prevailing wage requirement.

Additionally, the bill provides that if a commercial tenant, commercial subtenant, or other commercial occupant violates the provision of the lease, sublease, or other commercial occupancy agreement due to the underpayment of the prevailing wage rate, then the developer and any co-applicant of the redevelopment project may be required to forfeit all or part of the tax credit award,

depending on the tax period in which the violation is cured and documentation of such correction has been reviewed and approved by Commissioner of Labor and Workforce Development and verified by the EDA. Specifically, the bill provides that if a violation is not cured, or is not capable of being cured, within one year of receipt of notice of the violation, the developer and any co-applicant would be required to forfeit 50 percent of the tax credits otherwise authorized for the tax period in which the notice of violation was issued. Thereafter, if the violation is not cured on or before the conclusion of that tax period, the developer and any co-applicant would be required to forfeit up to 100 percent of the tax credits otherwise authorized, as determined by the EDA, in each subsequent tax period until the violation has been cured, and documentation of such correction has been reviewed and approved by Commissioner of Labor and Workforce Development and verified by the EDA.

Miscellaneous Program Changes

The bill amends several other provisions of law governing the Aspire Program, including expanding the scope of eligible incentive areas under the program. Specifically, the bill amends the definition of “incentive area” to include: any area designated as a brownfield site pursuant to the “Brownfield and Contaminated Site Remediation Act”; and an area of not less than 100 acres for which a licensed site remediation professional has certified environmental remediation costs, as defined in this bill and in accordance with the “Site Remediation Reform Act,” in an amount not less than \$10 million, provided that any portion of such area is located in an area that otherwise qualifies as an incentive area.

The bill also clarifies certain provisions of law governing the duration of eligibility periods under the Aspire Program. Under current law, after the EDA has approved an application for the Aspire Program, the EDA is responsible for entering into an incentive award agreement with the developer of the redevelopment project. The incentive award agreement specifies the amount of the tax credit award and the duration of the eligibility period, which period may not exceed 15 years for a commercial or mixed-use project or 10 years for a residential project. To reduce the total value of tax credits needed to reimburse a developer for all or part of the project financing gap of a redevelopment project, the bill permits the EDA, in its discretion, to approve a duration for the eligibility period that is shorter than the applicable maximum periods.

Additionally, the bill requires the incentive award agreement to include one or more provisions, as determined by the EDA, concerning the terms and conditions for default and the remedies for the developer of a redevelopment project in the event of default.

However, the EDA would not be permitted to declare a cross-default when the developer of a redevelopment project, including any business affiliate of the developer or any other entity with common principals as the developer, defaults on any other assistance program administered by the EDA.

The bill also amends current law to define the term “reasonable and appropriate return on investment” under the Aspire Program, which concept is used to determine a developer’s project financing gap. In general, the bill defines this term in a manner consistent with existing regulations. However, for any residential project that utilizes federal LIHTCs and generates returns on equity other than federal or local grants or proceeds from the sale of federal or local tax credits, the bill provides that the calculation of “reasonable and appropriate return on investment” would be based on both: (1) the discount rate at which the present value of the future cash flows of an investment equal the cost of the investment; and (2) with respect only to the units financed with LIHTCs, the approval of deferred developer fees pursuant to the rules established by the HMFA.

The bill also directs the Chief Executive Officer of the EDA to adopt rules and regulations to implement the provisions of the Aspire Program, as modified by this bill. Under the bill, these rules and regulations would take effect immediately upon filing with the Office of Administrative Law and would remain in effect for one year. Thereafter, before the expiration of these rules and regulations, the EDA would be required to amend, adopt, or readopt rules and regulations in accordance with the “Administrative Procedure Act.”

Additionally, the bill permits the holders of tax credit transfer certificates to transfer all or part of the tax credit amount for use by a transferee, which transferee may claim the transferred tax credits over a maximum of six years, subject to certain annual limitations set forth in the bill.

The bill also requires the EDA to submit a report to the Governor and Legislature, on or before December 31, 2023, concerning the effectiveness of the program in encouraging development in government-restricted municipalities. At a minimum, the report would be required to include recommendations to incentivize additional development in government-restricted municipalities through financial assistance or other incentives that the authority determines are appropriate.

Applicability to Prior and Future Applications

Except in certain circumstances, the bill provides that all Aspire Program applications completed after the date of enactment of this bill would be subject to the provisions of this bill, including any rules and regulations adopted by the EDA thereunder. In contrast, all program applications completed on or before the enactment of

the bill would be subject to the existing provisions of law and regulation governing the Aspire Program, except in certain circumstances.

However, if a completed application for a residential project was submitted within 121 days after the date of enactment, the applicant receives all applicable approvals for the project under the “Municipal Land Use Law” within such period, and the applicant submits written notice to the EDA before the EDA’s decision on the application, the bill provides that the application would be subject to some, but not all, of the provisions of this bill. In this event, the bill requires the application to be reviewed, approved, and administered in accordance with the existing provisions of law and regulation governing the Aspire Program, except for: (1) the determination of “reasonable and appropriate return on investment,” as defined in the bill; and (2) the limitations on total tax credit awards, as increased by the bill.

Additionally, the bill permits certain applicants to withdraw pending applications for the Aspire Program. Specifically, an applicant may withdraw any completed application that is pending approval by the EDA on the date of enactment of this bill at any time before the EDA approves or denies the application. In this event, the EDA would be required to return all application fees paid by the applicant, and the withdrawal may not serve to prejudice the consideration of any program application submitted by the applicant thereafter.

Other Changes to “New Jersey Economic Recovery Act of 2020”

The bill also provides additional changes to the “New Jersey Economic Recovery Act of 2020,” which established the Aspire Program, as well as several other economic development programs. Under current law, the total value of tax credits awarded under these economic development programs is limited to \$11.5 billion over a seven-year period. The law also limits the amount of tax credits that may be annually awarded under each of these programs during certain years within this seven-year period.

Notably, the bill amends the “New Jersey Economic Recovery Act of 2020” to increase the duration of this period from seven years to nine years, thereby extending the period of operation of these programs. As a part of this change, the bill also extends the statutory deadline to apply for tax credits under the Emerge Program from March 1, 2027 to March 1, 2029.

Additionally, the bill permits the EDA to annually transfer certain tax credits otherwise allocated to the Aspire Program and Emerge Program. Under current law, the total value of tax credits to be awarded under the Aspire Program and Emerge Program, not including transformative projects, may not exceed \$1.1 billion per year over a six-year period, subject to certain carry-forward

authorizations. Current law also provides that the total value of tax credits to be awarded for transformative projects under the Aspire Program may not exceed an aggregate balance of \$2.5 billion.

Specifically, the bill provides that beginning in State Fiscal Year 2024, the EDA may transfer, from the annual allotment of tax credits for the Aspire Program and Emerge Program, an amount not to exceed \$500 million in tax credits for transformative projects under the Aspire Program, provided that: (1) the remaining allocation of tax credits otherwise available for transformative projects is less than \$1 billion; and (2) the board of the EDA determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate. However, if the EDA elects to transfer these tax credits, the bill requires the EDA to award no greater than 65 percent of the transferred tax credits to transformative projects located in the northern counties of the State and no greater than 35 percent of the transferred tax credits to transformative projects located in the southern counties of the State.

COMMITTEE AMENDMENTS:

The committee amendments provide the following changes to the bill:

(1) increase the amount of tax credits that may be awarded to a redevelopment project or transformative project that is located within a government-restricted municipality from 70 percent to 80 percent of the total project costs;

(2) allow the EDA, in its discretion, to extend the deadline for the completion of certain transformative projects, which are not completed in phases, by up to one additional year;

(3) revise the definition of “health care or health services center” to require the establishment to be located within a municipality with a Municipal Revitalization Index distress score of at least 50, a distressed municipality, or a qualified incentive tract. As introduced, the bill would have required these establishments to be located within a municipality that lacks adequate access to health care services, as annually determined by the Commissioner of Health;

(4) revise the definition of “incentive area” to include: any area designated as a brownfield site pursuant to the “Brownfield and Contaminated Site Remediation Act”; and an area of not less than 100 acres for which a licensed site remediation professional has certified environmental remediation costs, as defined in this bill and in accordance with the “Site Remediation Reform Act,” in an amount not less than \$10 million, provided that any portion such area is located in an area that otherwise qualifies as an incentive area;

(5) allow a reduction to the net benefit requirement of up to 35 percentage points for any commercial project that is located on land owned by the federal government on or before December 31, 2005;

(6) revise certain provisions of the Aspire Program concerning the prevailing wage requirement for persons employed to perform building services work, including: (i) requiring all leases, subleases, or other commercial occupancy agreements to include a provision setting forth this requirement; (ii) providing that if a commercial tenant, commercial subtenant, or other commercial occupant violates this requirement, the developer and any co-applicant may be required to forfeit all or part of the tax credit award, depending on when the violation is cured and documentation of such correction has been reviewed and approved by Commissioner of Labor and Workforce Development and verified by the EDA; and (iii) clarifying that the exemption from this requirement, as proposed in the bill, would apply to any commercial tenant, commercial subtenant, or other commercial occupant that has a leasehold interest or other occupancy right in a redevelopment project, which leasehold interest or other occupancy right encompasses less than 5,000 square feet of space within the project;

(7) eliminate the requirement applicable to certain residential transformative projects, which include fewer than 700 new residential units and at least 50,000 square feet of commercial space, for a majority of the commercial space to be non-retail space;

(8) exempt any residential project that is located in a government-restricted municipality, and in which 100 percent of the residential units constructed in the residential project are reserved for occupancy by low- and moderate-income households, from the requirement to enter into a community benefits agreement;

(9) require the EDA to submit a report to the Governor and Legislature, on or before December 31, 2023, concerning the effectiveness of the program in encouraging development in government-restricted municipalities;

(10) allow the holders of tax credit transfer certificates to transfer all or part of the tax credit amount for use by a transferee, which transferee may claim the transferred tax credits over a maximum of six years, subject to certain annual limitations set forth in the bill; and

(11) provide technical changes to the bill.

FISCAL IMPACT:

Fiscal information is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5644

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JULY 5, 2023

SUMMARY

- Synopsis:** Revises various provisions of “New Jersey Economic Recovery Act of 2020,” including revisions to New Jersey Aspire Program.
- Type of Impact:** Increase in State expenditures; two-year extension of tax credit programs, but no additional State revenue loss.
- Agencies Affected:** New Jersey Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>Through March 1, 2029</u>
State Expenditure Increase	Indeterminate
State Revenue Impact	Two-year extension of tax credit programs, but no additional State revenue loss

- The Office of Legislative Services (OLS) determines that this bill will result in some indeterminate expenditure increases for the New Jersey Economic Development Authority associated with the administrative costs of implementing certain changes to the New Jersey Aspire Program and the extension of various economic development programs established under the New Jersey Economic Recovery Act of 2020.
- The bill does not increase the total value of tax credits authorized under the Economic Recovery Act, which is capped at \$11.5 billion, or the total value of tax credits that may be annually awarded under the Aspire and Emerge programs, which is capped annually at \$1.1 billion over the first six years, not including transformative projects.
- Accordingly, the OLS concludes that the bill would not result in State revenue reductions. Instead, the two-year extension of these economic development programs is expected to prolong the period in which the State may experience revenue losses due to the claiming of tax credits otherwise authorized under the Economic Recovery Act.

BILL DESCRIPTION

This bill provides various changes to the New Jersey Aspire Program, which is administered by the New Jersey Economic Development Authority and was enacted as part of the New Jersey Economic Recovery Act of 2020.

Under the Aspire Program, the authority awards tax credits to the developers of certain redevelopment projects that would be economically infeasible without such subsidies and that meet certain other requirements. In turn, these developers are required to comply with certain requirements concerning the development of these projects, including, but not limited to, the dedication of affordable housing in new residential projects. Under current law, the total tax credits awarded for any redevelopment project may not exceed certain statutory limitations. However, the authority may provide larger tax credit awards for “transformative projects,” which meet certain eligibility criteria and are also subject to statutory limitations on tax credit awards.

The bill revises other provisions of the New Jersey Economic Recovery Act of 2020, including extending the period in which other economic development programs, such as the Emerge Program, would continue to operate and authorizes the transfer of certain tax credits otherwise available for the Aspire Program and Emerge Program.

The Assembly Budget Committee statement to this bill from June 27, 2023 includes a more detailed discussion of the provisions of the proposed legislation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill will result in some indeterminate expenditure increases for the authority associated with the administrative costs of implementing certain changes to the Aspire Program and the extension of various economic development programs established under the New Jersey Economic Recovery Act of 2020.

Current law authorizes the issuance of up to \$11.5 billion in tax credits over seven years for various economic development programs established under the Economic Recovery Act. Additionally, under current law, the total value of tax credits to be awarded under the Aspire Program and Emerge Program, not including transformative projects, may not exceed \$1.1 billion annually for the first six years of the programs, subject to certain carry-forward authorizations. The total value of tax credits to be awarded annually for transformative projects under the Aspire program may not exceed an aggregate balance of \$2.5 billion.

This bill increases the duration period of the economic development programs established under the Economic Recovery Act from seven years to nine years and allows the transfer of certain unused credits from the Aspire Program and Emerge Program for transformative projects under the Aspire Program.

Additionally, the bill provides for numerous changes to the Aspire Program, including increasing the amount of tax credits that may be awarded to redevelopment projects and transformative projects, requiring the authority to establish new affordability controls for residential redevelopment projects, and revising certain other requirements and conditions for the receipt of tax credits under the Aspire Program.

As a result, the OLS anticipates that the authority will incur some increases in administrative expenses associated with the implementation of certain changes to the Aspire Program, including the development of new affordability controls, and the review and approval of applications for various economic development programs during the two-year extension period.

The bill does not increase the total value of tax credits authorized under the Economic Recovery Act, which is capped at \$11.5 billion, or the total value of tax credits that may be annually awarded under the Aspire and Emerge programs, which is capped annually at \$1.1 billion over the first six years of the program, not including transformative projects. Accordingly, the OLS concludes that the bill would not result in State revenue reductions associated with the issuance of tax credits through the various economic development programs established under the Economic Recovery Act, including the Aspire Program. Instead, the two-year extension of these economic development programs is expected to prolong the period in which the State may experience revenue losses due to the claiming of tax credits otherwise authorized under the Economic Recovery Act.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Michael D. Walker
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.).

Governor Murphy Signs Major Legislation to Generate Good-Paying Union Jobs and Accelerate Growth of Emerging Sectors

07/6/2023

Legislation Catalyzes Continued Job Generation and Expansion of Offshore Wind, Film Production, and Residential and Commercial Real Estate Industries

PAULSBORO – Governor Phil Murphy today signed a package of bills to promote the generation of family-sustaining, primarily union jobs and the growth of burgeoning industries in New Jersey. A5651/S4019 will enable New Jersey's first offshore wind project, Ocean Wind 1, to access federal tax credits and commit to supporting our state's growing offshore wind supply chain. Additionally, S3748/A5393 appropriates \$30 million and bolsters the State's film and digital media tax credit program, while S4023/A5644 makes critical changes to the Aspire Program, which brings new residential and commercial developments to under-resourced communities by helping to finance projects that would otherwise not be economically feasible for developers.

"When future generations look back on this pivotal moment in our state's history, we will be judged not only by our long-term economic vision for the *Next New Jersey*, but by the concrete steps we took to create good-paying jobs for workers here and now," said **Governor Murphy**. "The future of tomorrow's industries begins today, and with it the promise of an inclusive 21st-century economy founded upon family-sustaining union jobs and continued growth in emerging sectors. Whether it's offshore wind, film production, or residential and commercial development, by bolstering our standing as a national leader in these industries, we will continue to build a stronger and fairer New Jersey for all."

"Today, New Jersey takes a major step toward reaching the Governor's goal of 11 GW of offshore wind capacity by 2040 so that we can provide clean, renewable energy for all New Jerseyans as we continue to fight the ravages of climate change," said **NJBPU President Joseph L. Fiordaliso**. "Not only is a thriving offshore wind industry vital for the future of our environment, but it will provide a significant boost to our state's economy including the creation of a supply chain hub in south Jersey and thousands of good-paying union jobs."

"Under Governor Murphy's leadership, New Jersey has made major investments to build and attract new, diverse, and innovative sectors to help create a stronger, more resilient economy," said **Tim Sullivan, CEO, New Jersey Economic Development Authority (NJEDA)**. "With the stroke of a pen today, Governor Murphy is reaffirming his commitment to creating good-paying jobs, revitalizing communities, and improving New Jersey's environment. I thank Governor Murphy, as well as the Legislature for passing these critical bills, and we will allow the NJEDA to continue developing these industries and move our economy forward."

"We've seen what these projects have done for some of our downtown corridors, leading to an infusion of growth and a strong return on their investments," said **Senate Majority Leader M. Teresa Ruiz**. "Since the bill was signed—almost three years ago -- the economic circumstances have changed in New Jersey and around the country. This legislation will increase the project caps in cities that need more housing stock and greater economic development, while maintaining the integrity of the program."

"Netflix has committed to developing a state-of-the-art production facility on the campus of Fort Monmouth in Monmouth County, creating both permanent production jobs as well as construction jobs, not to mention revitalizing local economic activity," said **Senator Vin Gopal**. "Incentivizing film and digital production companies to increase investments into New Jersey facilities and localities will no doubt have a lasting, positive impact on the Shore Region."

"I'm incredibly proud of the aggressive clean energy goals we've set here in New Jersey," said **Senator Gordon Johnson**. "This legislation will go a long way in keeping us on track ensuring our offshore wind industry has the support it needs to get off the ground."

"The promise of the Aspire Tax Incentive Program has the opportunity to change lives, and transform neighborhoods, especially in cities such as Paterson, Trenton and Atlantic City," said **Senator Nellie Pou**. "The further enhancement of the program through this legislation is a lifeline, and will allow the Aspire program to live up to its fullest potential, as well as provide a long-needed boost to cities that have suffered greatly from the economic stress brought on by the Pandemic."

"The Shore region has long been one of the main drivers of economic growth in our state," said **Senator Paul Sarlo, Budget Committee Chair**. "The Netflix redevelopment at Fort Monmouth and other projects that will be aided by this legislation will certainly play a starring role in the region's continuing revitalization."

"There is endless potential for creating good, family-wage jobs with clean energy projects in New Jersey. We have the greatest workforce in America," said **Senator Bob Smith, Chair of the Senate Environment Committee**. "With this law, we are sending a strong message to those employers who want to invest in New Jersey that we are committed to being a leader in offshore wind and the global clean energy economy."

"New Jersey is no stranger to the effects of climate change. Rising sea levels, flooding, and severe storms have decimated our state in recent years. We now have a chance to change the course of our state's history and mitigate the effects of climate change by harnessing clean, renewable offshore wind to power our homes and businesses, allowing us to diversify our state's energy portfolio and reduce our dependence on fossil fuels," said **Assembly Majority Leader Louis D. Greenwald**. "Investing in clean energy will not only protect the environment, breathe, and lessen our carbon footprint, but it will also strengthen our economy, create jobs, and stimulate the growth of small businesses. Offshore wind is a once-in-a-generation environmental and economic opportunity for our state."

"As the birthplace of the movie camera and the motion picture industry, it's fitting that our state's earlier expansion of film and digital media credits led to \$650 million of in-state production spending in 2022 and the creation of over 8,500 jobs," said **Assemblyman Raj Mukherji**. "The legislation being signed today will lead to the development of studio space totaling hundreds of thousands of square feet, creating a multibillion dollar industry, thousands of permanent jobs in the industry, and thousands of ancillary jobs. The impact will be seismic, as we look to revitalize communities throughout our state and energize local economies."

"The ASPIRE program serves as a catalyst for the overall supply and improvement of housing affordability for low- and moderate-income individuals and families by offering project financing through tax credits to support our local developers and businesses," said **Assembly Budget Chair Eliana Pintor Marin**. "Combined with incentives for film and digital media content production, we are attracting investments to set our economy up for sustainable success. These programs will play a vital role in supporting local communities, fostering innovation, and positioning New Jersey as a leader in film productions and economic development."

"It is appropriate that Governor Murphy chose to sign the tax credit bill at the EEW AOS plant in Paulsboro because investments like this ensure that offshore wind farms up and down the Atlantic Seaboard will be built with components manufactured by New Jersey workers and shipped out of New Jersey ports," said **Former Senate President Steve Sweeney**, chairs the advisory board for the Sweeney Center for Public Policy at Rowan University and sponsored the state's first offshore wind tax credit law as Senate President in 2010. "Both the Administration and the Legislature worked hard over the past five years to put New Jersey in the forefront of offshore wind manufacturing, supply chains and development. This legislation preserves our edge in the increasing competition with New York, Maryland and other states for offshore wind jobs."

"Under the leadership of Governor Phil Murphy, New Jersey is on the verge of leading in a new energy industry that will lead to good union jobs for workers," said **Eastern Atlantic States Regional Council of Carpenters Executive Secretary-Treasurer William C. Sproule**. "Our union is ready to meet the needs of the new offshore wind industry through our expanded training facilities, our newly announced accreditation as the first trade union with a Global Wind Organisation certified training program, and with the thousands of already highly skilled union carpenters, pile drivers, and millwrights who are ready to build and maintain New Jersey offshore wind turbines."

"IATSE International President Matthew D. Loeb and the over 5,000 IATSE members who play a key role in entertaining the world working in the Garden State thank Governor Phil Murphy for his undaunting support for the Arts since the day he took the oath of office, and we thank him for his gracious actions bestowed upon the Arts community guiding us through the pandemic," said **Greg Hancox, President, International Alliance of Theatrical Stage Employees (IATSE) Local 59**.

"We applaud Governor Murphy and the New Jersey Legislature for continuing to prioritize the generation of family-sustaining jobs in emerging sectors. Our more than 7,000 members across the Garden State look forward to building the projects that will serve as the foundation of New Jersey's growing economy," said **Greg Lalevee, Business Manager, International Union of Operating Engineers (IUOE) Local 825**.

"I would like to thank Governor Murphy and the legislature for their leadership in making this reality. The signing of this important legislation will allow for many jobs to be created in the short term as well as the long term with the construction of the monopiles located at the Paulsboro Port," said **Daniel Cosner, President, Southern New Jersey Building Trades Council**.

"Today's bill signings are a testament to our shared understanding that our unions remain the backbone of a thriving 21st-century economy. We thank Governor Murphy and the New Jersey Legislature for promoting economic opportunity and good-paying jobs not just in South Jersey, but across the Garden State as a whole," **stated Southern New Jersey Cer Labor Council.**