



**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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

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CL/MM

P.L. 2024, CHAPTER 61, *approved September 4, 2024*  
Assembly, No. 4619

1 AN ACT concerning the “Historic Property Reinvestment Act” and  
2 “Brownfields Redevelopment Incentive Program Act” and  
3 amending P.L.2020, c.156.  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

8 1. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to  
9 read as follows:

10 3. As used in sections 2 through 8 of P.L.2020, c.156  
11 (C.34:1B-270 through C.34:1B-276):

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

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

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

28 "Cost of rehabilitation" means the consideration given, valued in  
29 money, whether given in money or otherwise, for the materials and  
30 services which constitute the rehabilitation, and includes all costs  
31 associated with the structural components within a qualified  
32 property or transformative property and any soft costs associated  
33 with a rehabilitation project, except not including any costs  
34 associated with an increase in total building volume.

35 "Cost of facade rehabilitation" means the consideration given,  
36 valued in money, whether given in money or otherwise, for the  
37 materials and services which constitute the facade rehabilitation  
38 project, and including all costs associated with necessary work to  
39 address structural components embedded within exterior walls,  
40 repair, reconstruction, or replacement of masonry units and mortar.

**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 exterior siding fabric, doors, windows, exterior lighting fixtures,  
2 and decorative components, such as metalwork, terracotta units, and  
3 cast stone, except not including any costs associated with  
4 demolition or interior construction.

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

7 "Exterior building features" include, but shall not be limited to,  
8 structural components embedded within exterior walls, masonry  
9 units and mortar, exterior siding fabric, doors, windows, exterior  
10 lighting fixtures, and decorative components, such as metalwork,  
11 terracotta units, and cast stone.

12 "Facade rehabilitation project" means a project consisting of the  
13 repair or reconstruction of exterior building features which  
14 constitute the facades of a qualified property or transformative  
15 property while preserving the portions or features of the property  
16 that have significant historical, architectural, and cultural values.

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

31 "Income producing property" means a structure or site that is  
32 used in a trade or business or to produce rental income.

33 "New Jersey S corporation" means the same as the term is  
34 defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

35 "Officer" means the State Historic Preservation Officer or the  
36 official within the State designated by the Governor or by statute in  
37 accordance with the provisions of chapter 3023 of Title 54, United  
38 States Code (54 U.S.C. s.302301 et seq.), to act as liaison for the  
39 purpose of administering historic preservation programs in the  
40 State.

41 "Partnership" means an entity classified as a partnership for  
42 federal income tax purposes.

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

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

18 **["Property"** means a structure, including its site improvements  
19 and landscape features, assessed as real property, and used for: a  
20 commercial purpose; a residential rental purpose, provided the  
21 structure contains at least four dwelling units; or any combination  
22 thereof.]

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

29 "Qualified property" means a property, including structures, site  
30 improvements, and landscape features, assessed as real property,  
31 that is used for a commercial purpose, a residential rental purpose,  
32 provided the structure contains at least four dwelling units, or any  
33 combination thereof; that is located in the State of New Jersey; that  
34 is **[an]** income producing **[property,]** ; and that is:

35 a. (1) individually listed, or located in a district listed on the  
36 National Register of Historic Places in accordance with the  
37 provisions of chapter 3021 of Title 54, United States Code (54  
38 U.S.C. s.302101 et seq.), or on the New Jersey Register of Historic  
39 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or  
40 individually designated, or located in a district designated, by the  
41 Pinelands Commission as a historic resource of significance to the  
42 Pinelands in accordance with the Pinelands comprehensive  
43 management plan adopted pursuant to the "Pinelands Protection  
44 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

45 (2) if located within a district, certified by either the officer or  
46 the Pinelands Commission, as appropriate, as contributing to the  
47 historic significance of the district; **[or]**

1 b. (1) individually identified or registered, or located in a  
2 district composed of properties identified or registered, for  
3 protection as significant historic resources in accordance with  
4 criteria established by a municipality in which the property or  
5 district is located if the criteria for identification or registration has  
6 been approved by the officer as suitable for substantially achieving  
7 the purpose of preserving and rehabilitating buildings of historic  
8 significance within the jurisdiction of the municipality, and

9 (2) if located within a district, certified by the officer as  
10 contributing to the historic significance of the district; or

11 c. (1) preliminarily determined by the National Park Service to  
12 be of historic significance in accordance with the requirements of  
13 36 C.F.R. s.67.3 and 36 C.F.R. s.67.4; and

14 (2) within one year of the issuance of the tax credits, listed on  
15 the New Jersey Register of Historic Places in accordance with the  
16 “New Jersey Register of Historic Places Act,” P.L.1970, c.268  
17 (C.13:1B-15.128 et seq.) and the New Jersey Register of Historic  
18 Places rules, N.J.A.C.7:4-1 et seq., as adopted by the Department of  
19 Environmental Protection and administered through the Historic  
20 Preservation Office. Failure to be listed on the New Jersey Register  
21 of Historic Places within one year of issuance of the tax credit shall  
22 result in the recapture of the tax credit.

23 "Rehabilitation" means the repair or reconstruction of the  
24 exterior or interior, including, but not limited to, structural or  
25 substrate components and electrical, plumbing, and heating  
26 components, of a qualified property or transformative project to  
27 make an efficient contemporary use possible while preserving the  
28 portions or features of the property that have significant historical,  
29 architectural, and cultural values.

30 **["Rehabilitation of the interior of the qualified property or**  
31 **transformative project" means the repair or reconstruction of the**  
32 **structural or substrate components and electrical, plumbing, and**  
33 **heating components within the interior of a qualified property or**  
34 **transformative project.]**

35 "Selected rehabilitation period" means a period of **[24]** 36  
36 months if the beginning of such period is chosen by the business  
37 entity during which, or parts of which, a rehabilitation is occurring,  
38 or a period of 60 months if a rehabilitation is reasonably expected to  
39 be completed in distinct phases set forth in written architectural  
40 plans and specifications completed before or during the physical  
41 work on the rehabilitation.

42 "Structural components" means the same as that term is defined  
43 in 26 C.F.R. s.1.48-1.

44 "Total cost of rehabilitation" means any costs incurred for, and in  
45 connection with, the rehabilitation project by the business entity and  
46 any affiliate of the business entity until the issuance of a permanent  
47 certificate of occupancy, or upon such other event evidencing

1 project completion as set forth in the rehabilitation agreement, and  
2 includes, but is not limited to, project costs, soft costs, and cost of  
3 acquisition of land and buildings.

4 "Total cost of facade rehabilitation project" means any costs  
5 incurred for, and in connection with, the facade rehabilitation  
6 project by the business entity and any affiliate of the business entity  
7 until the issuance of a permanent certificate of occupancy, or upon  
8 such other event evidencing project completion as set forth in the  
9 rehabilitation agreement, and includes, but is not limited to, project  
10 costs, soft costs, and cost of acquisition of land and buildings.

11 "Transformative project" means a property that is:

12 a. an income producing property, not including a residential  
13 property, whose rehabilitation the authority determines will  
14 generate substantial increases in State revenues through the creation  
15 of increased business activity within the surrounding area;

16 b. individually listed on the New Jersey Register of Historic  
17 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and  
18 which, before the enactment of P.L.2020, c.156 (C.34:1B-269 et  
19 al.), received a Determination of Eligibility from the Keeper of the  
20 National Register of Historic Places in accordance with the  
21 provisions of Part 60 of Title 36 of the Code of Federal  
22 Regulations; and

23 c. (1) located within a one-half mile radius of the center point  
24 of a transit village, as designated by the New Jersey Department of  
25 Transportation, and located within a city of the first class, as  
26 classified under N.J.S.40A:6-4; or (2) located within a government-  
27 restricted municipality.

28 (cf: P.L.2021, c.160, s.1)

29

30 2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to  
31 read as follows:

32 4. a. (1) A business entity, upon successful application to the  
33 New Jersey Economic Development Authority, and commitment to  
34 the authority to pay each worker employed to perform construction  
35 work and building services work at the qualified property or  
36 transformative project a wage not less than the prevailing wage rate  
37 for the worker's craft or trade, as determined by the Commissioner  
38 of Labor and Workforce Development pursuant to P.L.1963, c.150  
39 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax  
40 otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-  
41 5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-  
42 3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5,  
43 for a portion of the cost of rehabilitation paid by the business entity  
44 for the rehabilitation of a qualified property or transformative  
45 project, if the cost of rehabilitation during a business entity's  
46 selected rehabilitation period is not less than the greater of (a) the  
47 adjusted basis of the structure of the qualified property or

1 transformative project used for federal income tax purposes as of  
2 the beginning of the business entity's selected rehabilitation period,  
3 or (b) \$5,000. The amount of the credit claimed in any accounting  
4 or privilege period shall not reduce the amount of the tax liability to  
5 less than the statutory minimum provided in subsection (e) of  
6 section 5 of P.L.1945, c.162 (C.54:10A-5).

7 (2) The amount of credit allowed to a business entity pursuant to  
8 this section shall be as follows:

9 (a) for the rehabilitation of a qualified property located in a  
10 qualified incentive tract or government-restricted municipality,  
11 ~~45~~ 60 percent of the cost of rehabilitation paid by the business  
12 entity for the rehabilitation of the qualified property or ~~8~~ 12  
13 million, whichever is less;

14 (b) for the rehabilitation of a transformative project, 45 percent  
15 of the cost of rehabilitation paid by the business entity for the  
16 rehabilitation of the transformative project or \$50 million,  
17 whichever is less; and

18 (c) for the rehabilitation of any other qualified property not  
19 subject to provisions of subparagraph (a) or (b) of this paragraph,  
20 ~~40~~ 50 percent of the cost of rehabilitation paid by the business  
21 entity for the rehabilitation of the qualified property or ~~4~~ 8  
22 million, whichever is less.

23 (3) The prevailing wage requirement for construction work shall  
24 apply at a qualified property or transformative project during the  
25 selected rehabilitation period, and the prevailing wage requirement  
26 for building services work shall apply at a qualified property or  
27 transformative project for 10 years following completion of the  
28 rehabilitation work at the qualified property or transformative  
29 project. In the event a qualified property or transformative project,  
30 or the aggregate of all qualified properties and transformative  
31 projects approved for awards under the program, constitute a lease  
32 of more than 35 percent of a facility, the prevailing wage  
33 requirements shall apply to the entire facility.

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

1 clearance certificate issued by the Division of Taxation in the  
2 Department of the Treasury. The authority may also contract with  
3 an independent third party to perform a background check on the  
4 business entity. Following approval of an application by the  
5 authority, but prior to the start of any construction or rehabilitation  
6 at the qualified property or transformative project, the authority  
7 shall enter into a rehabilitation agreement with the business entity.  
8 The authority shall negotiate the terms and conditions of the  
9 rehabilitation agreement on behalf of the State.

10 (5) A rehabilitation project shall be eligible for a tax credit only  
11 if the business entity demonstrates to the authority at the time of  
12 application that:

13 (a) without the tax credit, the rehabilitation project is not  
14 economically feasible; and

15 (b) a project financing gap exists for a rehabilitation project that  
16 has a total rehabilitation cost or total facade rehabilitation cost  
17 equal to or greater than \$5 million and is located outside of a  
18 government-restricted municipality.

19 (6) For the purposes of paragraph (4) of this subsection, the start  
20 of any construction or rehabilitation shall not be deemed to include:

21 (a) work approved by the New Jersey Historic Trust or the New  
22 Jersey State Historic Preservation Office as meeting the Secretary  
23 of the Interior's Standards for Rehabilitation pursuant to section  
24 67.7 of Title 36, Code of Federal Regulations (36 C.F.R. s.67.7);

25 (b) work ordered by a building code or other official with  
26 jurisdiction over the site of the qualified property or transformative  
27 project to correct a health, safety, or other hazard and completed in  
28 accordance with the Secretary of the Interior's Standards for  
29 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal  
30 Regulations (36 C.F.R. s.67.7);

31 (c) work completed more than two years prior to the date of  
32 application; or

33 (d) work completed within two years of application and in  
34 accordance with the Secretary of the Interior's Standards for  
35 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal  
36 Regulations (36 C.F.R. 67.7).

37 (7) Any work completed before the start of construction or  
38 rehabilitation may be considered as part of the project, but shall not  
39 be a cost of rehabilitation or cost of facade rehabilitation.

40 b. A business entity may claim a credit under this section  
41 during the accounting or privilege period: (1) in which it makes the  
42 final payment for the cost of the rehabilitation if the business entity  
43 has chosen a selected rehabilitation period of 24 months; or (2) in  
44 which a distinct project phase of the rehabilitation is completed if  
45 the business entity has chosen a selected rehabilitation period of 60  
46 months. The credit may be claimed against any State tax, listed in  
47 paragraph (1) of subsection a. of this section, liability otherwise due

1 after any other credits permitted pursuant to law have been applied.  
2 The amount of credit claimed in an accounting or privilege period  
3 that cannot be applied for that accounting or privilege period due to  
4 limitations in this section may be transferred pursuant to section 5  
5 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to  
6 the nine accounting or privilege periods following the accounting or  
7 privilege period for which the credit was allowed.

8 c. A business entity shall submit to the authority satisfactory  
9 evidence of the actual cost of rehabilitation, as certified by a  
10 certified public accountant, evidence of completion of the  
11 rehabilitation or phase, and a certification that all information  
12 provided by the business entity to the authority is true, including  
13 information contained in the application, the rehabilitation  
14 agreement, any amendment to the rehabilitation agreement, and any  
15 other information submitted by the business entity to the authority  
16 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270  
17 through C.34:1B-276). The business entity, or an authorized agent  
18 of the business entity, shall certify under the penalty of perjury that  
19 the information provided pursuant to this subsection is true.

20 (cf: P.L.2021, c.160, s.2)

21

22 3. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to  
23 read as follows:

24 6. a. The authority shall, in consultation with the officer and  
25 the director, promulgate rules and regulations in accordance with  
26 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
27 seq.), as the officer deems necessary to administer the provisions of  
28 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through  
29 C.34:1B-276), including but not limited to rules establishing  
30 administrative fees to implement the provisions of sections 2  
31 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),  
32 and setting of an annual application submission date, requiring  
33 annual reporting by each business entity that receives a tax credit  
34 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270  
35 through C.34:1B-276). As part of the authority's review of the  
36 annual reports required from each business entity that receives a tax  
37 credit, the authority shall confirm with the Department of Labor and  
38 Workforce Development, the Department of Environmental  
39 Protection, and the Department of the Treasury that: the business  
40 entity 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 business entity, and the business entity shall certify that any  
44 contractors or subcontractors performing work at the qualified  
45 property or transformative project: (1) are registered as required by  
46 "The Public Works Contractor Registration Act," P.L.1999, c.238  
47 (C.34:11-56.48 et seq.); (2) have not been debarred by the

1 Department of Labor and Workforce Development from engaging  
2 in or bidding on Public Works Contracts in the State; and (3)  
3 possess a tax clearance certificate issued by the Division of  
4 Taxation in the Department of the Treasury. The rules and  
5 regulations adopted pursuant to this section shall also include a  
6 provision to require that business entities forfeit all tax credits  
7 awarded in any year in which the Department of Labor and  
8 Workforce Development, the Department of Environmental  
9 Protection, or the Department of the Treasury advises the authority  
10 that the business entity is not in substantial good standing nor has  
11 the business entity entered into an agreement with the respective  
12 department that includes a practical corrective action plan, and to  
13 allow the authority to extend, in individual cases, the deadline for  
14 any annual reporting or certification requirement established  
15 pursuant to this section.

16 b. For every tax credit allowed pursuant to section 4 of  
17 P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with  
18 the officer, shall certify to the director: the total cost of  
19 rehabilitation or total cost of facade rehabilitation project; that the  
20 property meets the definition of qualified property or transformative  
21 project, as applicable; and that the rehabilitation or facade  
22 rehabilitation project has been completed in substantial compliance  
23 with the requirements of the Secretary of the Interior's Standards for  
24 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal  
25 Regulations. The business entity shall attach the certification to the  
26 tax return on which the business entity claims the credit.

27 c. (1) The total amount of credits approved by the authority  
28 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270  
29 through C.34:1B-276) shall not exceed the limitations set forth in  
30 section 98 of P.L.2020, c.156 (C.34:1B-362). For the purpose of  
31 determining the aggregate value of tax credits approved in a fiscal  
32 year, a tax credit shall be deemed to have been approved at the time  
33 the authority approves an application for an award of a tax credit.  
34 If the authority approves less than the total amount of tax credits  
35 authorized pursuant to this subsection in a fiscal year, the remaining  
36 amount, plus any amounts remaining from previous fiscal years,  
37 shall be added to the limit of subsequent fiscal years until that  
38 amount of tax credits are claimed or allowed. Any unapproved,  
39 uncertified, or recaptured portion of tax credits during any fiscal  
40 year may be carried over and reallocated in succeeding years.

41 (2) Notwithstanding the provisions of paragraph (1) of this  
42 subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the  
43 contrary, the authority may approve tax credits, pursuant to sections  
44 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-  
45 276), for the rehabilitation of a transformative project in an amount  
46 that causes the total amount of credits approved during the fiscal  
47 year to exceed the limitations set forth in section 98 of P.L.2020,

1 c.156 (C.34:1B-362), provided that the amount of the excess shall  
2 be subtracted from the total amount of credits that may be approved  
3 by the authority in the subsequent fiscal year, and the amount of the  
4 excess shall not exceed 50 percent of the total tax credits otherwise  
5 authorized for the fiscal year.

6 (3) The authority, in consultation with the officer, shall devise  
7 criteria for allocating tax credit amounts if the approved amounts  
8 combined exceed the total amount in each fiscal year, including  
9 rules that allocate over multiple fiscal years a single credit amount  
10 granted in excess of \$2,000,000. The criteria shall include a  
11 project's historic importance, positive impact on the surrounding  
12 neighborhood, economic sustainability, geographic diversity, and  
13 consistency with Statewide growth and development policies and  
14 plans.

15 (4) At the authority's discretion, up to 50 percent of the tax  
16 credits available for distribution in any given year may be allocated  
17 to facade rehabilitation projects. The amount of credit allowed to a  
18 business entity pursuant to this paragraph shall be 50 percent of the  
19 cost of facade rehabilitation for a project or \$4 million, whichever  
20 is less. The tax credits allocated pursuant to this paragraph shall be  
21 awarded through a competitive application process whereby the  
22 authority shall evaluate all applications submitted by a date certain,  
23 as if all received applications were submitted on that date.  
24 Notwithstanding the provisions of section 4 of P.L.2020, c.156  
25 (C.34:1B-272), a project financing gap analysis shall not be  
26 required for the submission or approval of these applications.  
27 When scoring applications, the authority shall consider factors  
28 including, but not limited to: the retention of existing historic  
29 fabric versus demolition; building location, with preference given to  
30 buildings that contribute to the historic significance of a historic  
31 district; and the amount of community support for the project.

32 d. Notwithstanding any provision of the "Administrative  
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
34 contrary, the chief executive officer of the authority may adopt,  
35 immediately upon filing with the Office of Administrative Law,  
36 rules and regulations necessary to implement the provisions of  
37 P.L. , c. (pending before the Legislature as this bill). The rules  
38 and regulations adopted pursuant to this section shall be effective  
39 for a period not to exceed 365 days following the date of filing and  
40 may thereafter be amended, adopted, or readopted by the director in  
41 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
42 et seq.).

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

44  
45 4. Section 7 of P.L.2020, c.156 (C.34:1B-275) is amended to  
46 read as follows:

1       7. a. The authority, in collaboration with the director, shall  
2 adopt rules for the recapture of an entire or partial tax credit amount  
3 allowed under sections 2 through 8 of P.L.2020, c.156 (C.34:1B-  
4 270 through C.34:1B-276). The rules shall require the authority to  
5 notify the director of the recapture of an entire or partial tax credit  
6 amount. Recaptured funds shall be deposited in the General Fund  
7 of the State.

8       b. If, before the end of five full years after the completion of  
9 the rehabilitation of the qualified property or transformative project,  
10 a developer that has received a tax credit pursuant to section 4 of  
11 P.L.2020, c.156 (C.34:1B-272) modifies the qualified property or  
12 transformative project so that it ceases to meet the requirements for  
13 the rehabilitation of a qualified property or transformative project as  
14 defined under the program or ceases to meet the requirement of the  
15 rehabilitation agreement then the tax credit allowed under the  
16 program shall be recaptured in accordance with the rules adopted  
17 pursuant to subsection a. of this section.

18       c. In the case of a business entity that has chosen a selected  
19 rehabilitation period of 60 months, if the architectural plans change  
20 in the course of the phased rehabilitation project so that the  
21 rehabilitation of the qualified property or transformative project  
22 would, upon the rehabilitation's completion, no longer qualify for a  
23 tax credit pursuant to the requirements of sections 2 through 8 of  
24 P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), then the  
25 **【business entity's tax liability for that accounting or privilege**  
26 **period shall be increased by the full amount of the tax credit that the**  
27 **authority had previously granted upon the completion of a distinct**  
28 **prior project phase that the business entity has applied against its**  
29 **tax liability in a prior accounting or privilege period】 tax credits**  
30 **issued shall be subject to recapture.** Any portion of the tax credit  
31 that the business entity has not yet used at the time of the  
32 disallowance by the officer shall be deemed void.

33 (cf: P.L.2020, c.156, s.7)

34  
35       5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to  
36 read as follows:

37       10. As used in sections 9 through 19 of P.L.2020, c.156  
38 (C.34:1B-277 through C.34:1B-287):

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

41       "Board" means the Board of the New Jersey Economic  
42 Development Authority, established pursuant to section 4 of  
43 P.L.1974, c.80 (C.34:1B-4).

44       "Brownfield site" means any **【former or current commercial or**  
45 **industrial site】 real property in this State** that is currently vacant or  
46 underutilized and on which there has been, or there is suspected to

1 have been, a discharge of a contaminant or on which there is  
2 contaminated building material.

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

13 "Contaminated building material" means components of a  
14 structure where abatement or removal of asbestos, or remediation of  
15 materials containing hazardous substances defined pursuant to  
16 section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by  
17 applicable federal, state, or local rules or regulations.

18 "Contamination" or "contaminant" means any discharged  
19 hazardous substance as defined pursuant to section 3 of P.L.1976,  
20 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to  
21 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined  
22 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or  
23 contaminated building material.

24 "Department" means the Department of Environmental  
25 Protection.

26 "Developer" means any person that enters or proposes to enter  
27 into a redevelopment agreement with the authority pursuant to the  
28 provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

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

31 "Equity" means developer-contributed capital that may consist of  
32 cash, costs for project feasibility incurred within the 12 months  
33 prior to application, property value less any mortgages when the  
34 developer owns the project site, and any other investment by the  
35 developer in the project that the authority deems acceptable.  
36 Property value shall be an amount equal to the lesser of: (1) the  
37 purchase price, provided the property was purchased pursuant to an  
38 arm's length transaction within 12 months of application; or (2) the  
39 value as determined by a current appraisal acceptable to the  
40 authority. "Equity" includes federal or local grants and proceeds  
41 from the sale of federal or local tax credits, including, but not  
42 limited to, any federal tax credits that the redevelopment receives  
43 pursuant to section 42 of the federal Internal Revenue Code of 1986  
44 (26 U.S.C. s.42) and section 45D of the federal Internal Revenue  
45 Code of 1986 (26 U.S.C. s.45D). "Equity" shall not include State  
46 grants or tax credits or proceeds from redevelopment area bonds.  
47 For a residential project utilizing low income tax credits awarded by

1 the New Jersey Housing and Mortgage Financing Agency pursuant  
2 to section 19 of P.L.2008, c.46 (C.52:27D-321.1), "equity" includes  
3 the portion of the developer's fee that is deferred for a minimum of  
4 five years.

5 "Government-restricted municipality" means a municipality in  
6 this State with a municipal revitalization index distress score of at  
7 least 75, that met the criteria for designation as an urban aid  
8 municipality in the 2019 State fiscal year, and that, on the effective  
9 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial  
10 restrictions imposed pursuant to the "Municipal Stabilization and  
11 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is  
12 restricted in its ability to levy property taxes on property in that  
13 municipality as a result of the State of New Jersey owning or  
14 controlling property representing at least 25 percent of the total land  
15 area of the municipality or as a result of the federal government of  
16 the United States owning or controlling at least 50 acres of the total  
17 land area of the municipality, which is dedicated as a national  
18 natural landmark.

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

44 "Licensed site remediation professional" means an individual  
45 who is licensed by the Site Remediation Professional Licensing  
46 Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the  
47 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

1 "Program" means the Brownfields Redevelopment Incentive  
2 Program established by section 11 of P.L.2020, c.156 (C.34:1B-  
3 279).

4 "Project financing gap" means the part of the total remediation  
5 cost, including reasonable and appropriate return on investment,  
6 that remains to be financed after all other sources of capital have  
7 been accounted for, including, but not limited to, developer  
8 contributed capital, which shall not be less than 20 percent of the  
9 total remediation cost, and investor or financial entity capital or  
10 loans for which the developer, after making all good faith efforts to  
11 raise additional capital, certifies that additional capital cannot be  
12 raised from other sources; provided, however, that for a  
13 redevelopment project located in a government-restricted  
14 municipality, the developer contributed capital shall not be less than  
15 10 percent of the cost of rehabilitation. When an applicant is  
16 proposing a new project, the project financing gap shall consider  
17 the cost of the full project, but the award size shall be based on  
18 remediation costs. Developer contributed capital may consist of  
19 cash, deferred development fees, costs for project feasibility  
20 incurred within the 12 months prior to application, property value  
21 less any mortgages when the developer owns the project site, and  
22 any other investment by the developer in the project deemed  
23 acceptable by the authority, as provided by regulations promulgated  
24 by the authority. Property value shall be valued at the lesser of  
25 either: a. the purchase price, provided the property was purchased  
26 pursuant to an arm's length transaction within 12 months of  
27 application; or b. the value as determined by a current appraisal.

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

34 "Redevelopment agreement" means an agreement between the  
35 authority and a developer under which the developer agrees to  
36 perform any work or undertaking necessary for the remediation of a  
37 brownfield site located at the site of the redevelopment project[,  
38 and for the clearance, development or redevelopment, construction,  
39 reconstruction, or rehabilitation of any structure or improvement of  
40 commercial, industrial, or public structures or improvements within  
41 an area of land whereon a brownfield site is located].

42 "Redevelopment project" means a specific [construction]  
43 remediation project [or improvement] undertaken, pursuant to the  
44 terms of a redevelopment agreement, by a developer within an area  
45 of land whereon a brownfield site is located. [A redevelopment  
46 project may involve construction or improvement upon lands,  
47 buildings, improvements, or real and personal property, or any

1 interest therein, including lands under water, riparian rights, space  
2 rights, and air rights, acquired, owned, developed or redeveloped,  
3 constructed, reconstructed, rehabilitated, or improved.】

4 "Remediation" or "remediate" means all necessary actions to  
5 investigate and clean up or respond to any known, suspected, or  
6 threatened discharge of contaminants, including, as necessary, the  
7 preliminary assessment, site investigation, remedial investigation,  
8 and remedial action, or any portion thereof, as those terms are  
9 defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and  
10 hazardous materials abatement; hazardous materials or waste  
11 disposal; building and structural remedial activities, including, but  
12 not limited to, demolition, asbestos abatement, polychlorinated  
13 biphenyl removal, improvement and capping of landfills,  
14 contaminated wood or paint removal, or other infrastructure  
15 remedial activities; provided, however, "remediation" or  
16 "remediate" shall not include the payment of compensation for  
17 damage to, or loss of, natural resources.

18 "Remediation costs" means all reasonable costs associated with  
19 the remediation of a contaminated site, except any costs incurred in  
20 financing the remediation.

21 (cf: P.L.2021, c.160, s.5)

22

23 6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to  
24 read as follows:

25 12. a. A developer seeking a tax credit for a redevelopment  
26 project shall submit an application to the authority and the  
27 department in a form and manner prescribed in regulations adopted  
28 by the authority, in consultation with the department, pursuant to  
29 the provisions of the "Administrative Procedure Act," P.L.1968,  
30 c.410 (C.52:14B-1 et seq.).

31 b. A redevelopment project shall be eligible for a tax credit  
32 only if the developer demonstrates to the authority and the  
33 department at the time of application that:

34 (1) except as ordered by a government official with jurisdiction  
35 over the brownfield site or certified by a Licensed Site Remediation  
36 Professional to correct or prevent the spread of a health, safety, or  
37 other hazard, and as provided in subsection j. of this section, the  
38 developer has not commenced any remediation or clean up at the  
39 site of the redevelopment project, except for preliminary  
40 assessments and investigations, prior to applying for a tax credit  
41 pursuant to this section, but intends to remediate **【and redevelop】**  
42 the site immediately upon approval of the tax credit;

43 (2) the redevelopment project is located on a brownfield site;

44 (3) without the tax credit, the redevelopment project is not  
45 economically feasible;

1 (4) a project financing gap exists for projects located outside of  
2 a government-restricted municipality that have a total remediation  
3 cost of \$5,000,000 or greater;

4 (5) the developer **【has obtained and submitted】** shall obtain and  
5 submit to the authority, before approval by the board, a letter  
6 evidencing support for the redevelopment project from the  
7 governing body of the municipality in which the redevelopment  
8 project is located; and

9 (6) each worker employed to perform remediation, construction,  
10 or building services work at the redevelopment project shall be paid  
11 not less than the prevailing wage rate for the worker's craft or trade,  
12 as determined by the Commissioner of Labor and Workforce  
13 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).  
14 The prevailing wage requirements shall apply for remediation or  
15 construction work through the completion of the redevelopment  
16 project, and the prevailing wage requirements shall apply for  
17 building services work at the site of the redevelopment project for  
18 10 years following completion of the redevelopment project. In the  
19 event a redevelopment project, or the aggregate of all  
20 redevelopment projects approved for an award under the program,  
21 constitute a lease of more than 35 percent of a facility, the  
22 prevailing wage requirements shall apply to the entire facility.

23 c. A redevelopment project that received a reimbursement  
24 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
25 through 58:10B-31) shall not be eligible to apply for a tax credit  
26 under the program. If the authority receives an application and  
27 supporting documentation for approval of a reimbursement pursuant  
28 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through  
29 58:10B-31) prior to the effective date of sections 9 through 19 of  
30 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the  
31 authority may consider the application and award a tax credit to a  
32 developer, provided that the authority shall take final action on all  
33 applications for approval of a reimbursement pursuant to sections  
34 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)  
35 no later than July 1, 2019. No applications shall be submitted  
36 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
37 through 58:10B-31) after the effective date of sections 9 through 19  
38 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

39 d. (1) Prior to approval of an application, the authority shall  
40 confirm with the Department of Labor and Workforce  
41 Development, the Department of Environmental Protection, and the  
42 Department of the Treasury whether the developer is in substantial  
43 good standing with the respective department, or has entered into an  
44 agreement with the respective department that includes a practical  
45 corrective action plan for the developer. The authority may also  
46 contract with an independent third party to perform a background  
47 check on the developer. The developer shall certify that any

1 contractors or subcontractors that perform work at the  
2 redevelopment project: (a) are registered as required by "The Public  
3 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-  
4 56.48 et seq.); (b) have not been debarred by the Department of  
5 Labor and Workforce Development from engaging in or bidding on  
6 Public Works Contracts in New Jersey, and (c) possess a tax  
7 clearance certificate issued by the Division of Taxation in the  
8 Department of the Treasury. Provided that the developer is in  
9 substantial good standing with the Department of Labor and  
10 Workforce Development, the Department of Environmental  
11 Protection, and the Department of the Treasury, or has entered into  
12 such an agreement, and following approval of an application by the  
13 board, the authority shall enter into a redevelopment agreement  
14 with the developer, as provided for in section 13 of P.L.2020, c.156  
15 (C.34:1B-281).

16 (2) The authority, in consultation with the department, may  
17 impose additional requirements upon an applicant through rule or  
18 regulation adopted pursuant to the provisions of the "Administrative  
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the  
20 authority or the department determines the additional requirements  
21 to be necessary and appropriate to effectuate the purposes of  
22 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through  
23 C.34:1B-287).

24 e. The authority, in consultation with the department, shall  
25 conduct a review of the applications on a rolling basis, unless the  
26 authority determines that demand is likely to exceed available tax  
27 credits, and then through a competitive application process whereby  
28 the authority and the department shall evaluate all applications  
29 submitted by a date certain, as if all received applications were  
30 submitted on that date. To receive a tax credit award, a developer's  
31 application shall meet a minimum score, as determined by the  
32 authority. In addition to the eligibility criteria set forth in  
33 subsection b. of this section, the authority, in consultation with the  
34 department, may consider additional factors that may include, but  
35 shall not be limited to: the economic feasibility of the  
36 redevelopment project; the benefit of the redevelopment project to  
37 the community in which the remediation project is located; the  
38 degree to which the redevelopment project enhances and promotes  
39 **【job creation and】** economic development and reduces  
40 environmental or public health stressors in an overburdened  
41 community, as those terms are defined by section 2 of P.L.2020,  
42 c.92 (C.13:1D-158), and attendant department regulations; and, if  
43 the developer has a board of directors, the extent to which that  
44 board of directors is diverse and representative of the community in  
45 which the redevelopment project is located. The authority, in  
46 consultation with the department, shall submit applications that  
47 comply with the eligibility criteria set forth in this section, fulfill

1 the additional factors considered by the authority pursuant to this  
2 subsection, satisfy the submission requirements, and provide  
3 adequate information for the subject application, to the board for  
4 final approval.

5 f. The authority shall award tax credits to redevelopment  
6 projects until either the available tax credits are exhausted or all  
7 redevelopment projects that are eligible for a tax credit pursuant to  
8 the provisions of sections 9 through 19 of P.L.2020, c.156  
9 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever  
10 occurs first. If insufficient funding exists to allow a tax credit to a  
11 developer in accordance with the provisions of subsection a. of  
12 section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may  
13 offer the developer a value of the tax credit below the amount  
14 provided for in subsection a. of section 16 of P.L.2020, c.156  
15 (C.34:1B-284).

16 g. A developer shall pay to the authority or to the department,  
17 as appropriate, the full amount of the direct costs of an analysis  
18 concerning the developer's application for a tax credit, which a third  
19 party retained by the authority or department performs, if the  
20 authority or department deems such retention to be necessary.

21 h. If the authority determines that a developer made a material  
22 misrepresentation on the developer's application, the developer shall  
23 forfeit all tax credits awarded under the program.

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

29 j. A developer who has commenced remediation or clean up at  
30 the site and who could not reasonably have known the full extent of  
31 the site contamination prior to commencing the remediation may  
32 still apply for a tax credit under the program, if the developer  
33 certifies to the authority, under the penalty of perjury, that the  
34 developer cannot reasonably finish the remediation and commence  
35 the redevelopment project absent the tax credit.

36 (cf: P.L.2021, c.160, s.6)

37

38 7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to  
39 read as follows:

40 13. a. Following approval of an application by the board, but  
41 prior to the start of any remediation or clean up at the site of the  
42 redevelopment project, except activities disclosed at the time of  
43 approval or those in accordance with section 12 of P.L.2020, c.156  
44 (C.34:1B-280), the authority shall enter into a redevelopment  
45 agreement with the developer. The chief executive officer of the  
46 authority shall negotiate the terms and conditions of the  
47 redevelopment agreement on behalf of the State.

1       b. The redevelopment agreement shall specify the amount of  
2 the tax credit to be awarded to the developer, the date on which the  
3 developer shall complete the remediation, and the projected project  
4 remediation cost. The redevelopment agreement shall require the  
5 developer to submit progress reports to the authority and to the  
6 department every six months pursuant to section 15 of P.L.2020,  
7 c.156 (C.34:1B-283).

8       c. The authority shall not enter into a redevelopment agreement  
9 with a developer unless:

10       (1) the redevelopment project complies with standards  
11 established by the authority in accordance with the green building  
12 manual prepared by the Commissioner of Community Affairs  
13 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),  
14 regarding the use of renewable energy, energy-efficient technology,  
15 and non-renewable resources to reduce environmental degradation  
16 and encourage long-term cost reduction;

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

20       (3) the developer pays each worker employed to perform  
21 remediation work, construction work, or building services work at  
22 the redevelopment project not less than the prevailing wage rate in  
23 accordance with the requirements of paragraph (6) of subsection b.  
24 of section 12 of P.L.2020, c.156 (C.34:1B-280) for the worker's  
25 craft or trade, as determined by the Commissioner of Labor and  
26 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-  
27 56.25 et seq.).

28       d. The authority shall not enter into a redevelopment agreement  
29 unless the developer demonstrates, to the satisfaction of the  
30 Department of Environmental Protection, that the developer did not  
31 discharge a hazardous substance at the brownfield site proposed to  
32 be in the redevelopment agreement~~],~~ is not in any way responsible  
33 for the hazardous substance,~~]~~ and is not a corporate successor to the  
34 discharger or to any person in any way responsible for the  
35 hazardous substance or to anyone liable for cleanup and removal  
36 costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

37       e. (1) Except as provided in paragraph (2) of this subsection,  
38 the authority shall not enter into a redevelopment agreement for a  
39 redevelopment project that includes at least one retail establishment  
40 that will have more than 10 employees, or at least one distribution  
41 center that will have more than 20 employees, unless the  
42 redevelopment agreement includes a precondition that any business  
43 that serves as the owner or operator of the retail establishment or  
44 distribution center enters into a labor harmony agreement with a  
45 labor organization or cooperating labor organizations which  
46 represent retail or distribution center employees in the State.

1 (2) A labor harmony agreement shall be required only if the  
2 State has a proprietary interest in the redevelopment project and  
3 shall remain in effect for as long as the State acts as a market  
4 participant in the redevelopment project. The authority may enter  
5 into a redevelopment agreement with a developer without the labor  
6 harmony agreement required under paragraph (1) of this subsection  
7 only if the authority determines that the redevelopment project  
8 would not be feasible if a labor harmony agreement is required.  
9 The authority shall support the determination by a written finding,  
10 which provides the specific basis for the determination.

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

37 f. The redevelopment agreement shall provide that issuance of  
38 a tax credit under the program shall be conditioned upon the  
39 subrogation to the department of all rights of the developer to  
40 recover remediation costs from any other person who discharges a  
41 hazardous substance or is in any way responsible, pursuant to  
42 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous  
43 substance that was discharged at the brownfield site.

44 g. A developer may seek a revision to the redevelopment  
45 agreement if the developer cannot complete the remediation on or  
46 before the date set forth in the redevelopment agreement. A  
47 developer's ability to change the date on which the developer shall

1 complete the remediation shall be subject to the availability of tax  
2 credits in the year of the revised date of completion.

3 h. A developer shall submit to the authority satisfactory  
4 evidence of the actual remediation costs, as certified by a certified  
5 public accountant, and a Licensed Site Remediation Professional for  
6 costs under the jurisdiction of the "Site Remediation Reform Act,"  
7 sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as  
8 applicable, other appropriate licensed or certified professional for  
9 costs that are not under the jurisdiction of the "Site Remediation  
10 Reform Act," evidence of completion of the remediation as  
11 demonstrated by a Response Action Outcome where the  
12 remediation is subject to the "Site Remediation Reform Act," a  
13 certification from the appropriate licensed or certified professional  
14 for other remedial activities, and a certification that all information  
15 provided by the developer to the authority is true, including  
16 information contained in the application, the redevelopment  
17 agreement, any amendment to the redevelopment agreement, and  
18 any other information submitted by the developer to the authority  
19 pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277  
20 through C.34:1B-287). The developer, or an authorized agent of the  
21 developer, shall certify under the penalty of perjury that the  
22 information provided pursuant to this subsection is true.

23 i. The redevelopment agreement shall include a provision  
24 allowing the authority to recapture the tax credits for any year in  
25 which the Department of Environmental Protection, the Department  
26 of Labor and Workforce Development, or the Department of the  
27 Treasury that advises the authority that the developer is not in  
28 substantial good standing with the respective department, nor has  
29 the developer entered into an agreement with the respective  
30 department that includes a practical corrective action plan for the  
31 developer. The redevelopment agreement shall also include a  
32 provision allowing the authority to recapture the tax credits for any  
33 year in which the developer fails to confirm that each contractor or  
34 subcontractor performing work at the redevelopment project: (1) is  
35 registered as required by "The Public Works Contractor  
36 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has  
37 not been debarred by the Department of Labor and Workforce  
38 Development from engaging in or bidding on Public Works  
39 Contracts in New Jersey; and (3) possesses a tax clearance  
40 certificate issued by the Division of Taxation in the Department of  
41 the Treasury. **【The redevelopment agreement shall also require a  
42 developer to engage in on-site consultations with the Division of  
43 Workplace Safety and Health in the Department of Health.】**  
44 (cf: P.L.2021, c.160, s.7)

45  
46 8. Section 14 of P.L.2020, c.156 (C.34:1B-282) is amended to  
47 read as follows:

1       14. **【To】** In addition to the submission of any additional  
2 evidence that the authority may request to verify that activities  
3 comply with local, state, and federal regulations, to qualify for a tax  
4 credit under the program, a developer shall, as applicable:

5       a. enter into **【a memorandum of agreement】** an administrative  
6 consent order or other oversight document with the Commissioner  
7 of Environmental Protection in accordance with the provisions of  
8 section 37 of P.L.1997, c.278 (C.58:10B-29); **【or】**

9       b. comply with the requirements set forth in subsection b. of  
10 section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of  
11 the site of the redevelopment project; or

12       c. comply with the rules, regulations, and guidelines by the  
13 federal government, the New Jersey Department of Labor and  
14 Workforce Development, the New Jersey Department of Health,  
15 and the New Jersey Department of Community Affairs regarding  
16 requirements for remediation of asbestos, contaminated paint,  
17 polychlorinated biphenyls, and other environmental hazards.

18 (cf: P.L.2020, c.156, s.14)

19  
20       9. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to  
21 read as follows:

22       16. a. Upon completion of the remediation, the developer shall  
23 seek certification from the authority, in consultation with the  
24 department, that:

25       (1) the remediation is complete;

26       (2) the developer complied with the requirements of section 14  
27 of P.L.2020, c.156 (C.34:1B-282), as applicable, and section 15 of  
28 P.L.2020, c.156 (C.34:1B-283)【, including the requirements of any  
29 memorandum of agreement or other oversight document that the  
30 developer may have executed with the Commissioner of  
31 Environmental Protection pursuant to that section**】**; and

32       (3) the remediation costs were actually and reasonably incurred.

33       Upon receipt of certification, and confirmation by the authority  
34 that the developer's obligations under the redevelopment agreement  
35 have been met, a developer shall be awarded a credit against the tax  
36 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
37 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),  
38 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as  
39 follows: (a) for project located in a qualified incentive tract or  
40 government-restricted municipality, in an amount not to exceed  
41 **【60】** 80 percent of the actual remediation costs, or 【60】 80 percent  
42 of the projected remediation costs as set forth in the redevelopment  
43 agreement, or 【\$8,000,000】 \$12,000,000, whichever is least; 【and】  
44 (b) for a project erecting a solar panel array on the site of a closed  
45 sanitary landfill, in an amount not to exceed 100 percent of the  
46 costs of remediation and capping of the landfill, or \$12,000,000 if

1 the project is located in a qualified incentive tract or government-  
2 restricted municipality, or \$8,000,000 if the project is located  
3 anywhere else in the State, whichever is least; and (c) for all other  
4 projects, in an amount not to exceed **[50]** 60 percent of the actual  
5 remediation costs, or **[50]** 60 percent of the projected remediation  
6 costs as set forth in the redevelopment agreement, or **[\$4,000,000]**  
7 \$8,000,000, whichever is least. The developer, or an authorized  
8 agent of the developer, shall certify that the information provided to  
9 the department and the authority pursuant to this subsection is true  
10 under the penalty of perjury.

11 b. When filing an application for certification pursuant to  
12 subsection a. of this section, the developer shall submit to the  
13 department and the authority: (1) the total remediation costs  
14 incurred by the developer for the remediation of the subject  
15 property located at the site of the redevelopment project, as  
16 provided in the redevelopment agreement, and certified by a  
17 certified public accountant, and a Licensed Site Remediation  
18 Professional for costs under the jurisdiction of the "Site  
19 Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60  
20 (C.58:10C-1 et seq.), and as applicable, other appropriate licensed  
21 or certified professional for costs that are not under the jurisdiction  
22 of the "Site Remediation Reform Act"; (2) evidence of completion  
23 of the remediation, as demonstrated by a Response Action Outcome  
24 where the remediation is subject to the "Site Remediation Reform  
25 Act"; (3) a certification from the appropriate licensed or certified  
26 professional for other remedial activities; (4) as applicable,  
27 information concerning the occupancy rate of **[the]** any buildings  
28 or other work areas located on the property subject to the  
29 redevelopment agreement; and (5) such other information as the  
30 department deems necessary in order to make the certifications and  
31 findings pursuant to this section.

32 c. A developer shall apply the credit awarded against the  
33 developer's liability for the tax imposed pursuant to section 5 of  
34 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132  
35 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231  
36 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during  
37 which the **[department]** director awards the developer a tax credit  
38 pursuant to subsection a. of this section. A developer shall not  
39 carry forward any unused credit.

40 d. The director shall prescribe the order of priority of the  
41 application of the credit awarded under this section and any other  
42 credits allowed by law against the tax imposed under section 5 of  
43 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
44 under this section against the tax imposed pursuant to section 5 of  
45 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
46 any other credits allowed by law, shall not reduce the tax liability to

1 an amount less than the statutory minimum provided in subsection  
2 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).  
3 (cf: P.L.2021, c.160, s.8)  
4

5 10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to  
6 read as follows:

7 19. a. Notwithstanding the provisions of the "Administrative  
8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
9 contrary, the chief executive officer of the authority, in consultation  
10 with the Commissioner of Environmental Protection, may adopt,  
11 immediately upon filing with the Office of Administrative Law,  
12 regulations that the chief executive officer and commissioner deem  
13 necessary to implement the provisions of sections 9 through 19 of  
14 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which  
15 regulations shall be effective for a period not to exceed 360 days  
16 from the date of the filing. The chief executive officer, in  
17 consultation with the Commissioner of Environmental Protection,  
18 shall thereafter amend, adopt, or readopt the regulations in  
19 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
20 et seq.). The rules shall require annual reporting by developers that  
21 receive tax credits pursuant to the program, in addition to the  
22 regular progress updates. As part of the authority's review of the  
23 annual reports required from a developer, the authority shall  
24 confirm with the Department of Labor and Workforce  
25 Development, the Department of Environmental Protection, and the  
26 Department of the Treasury that the developer is in substantial good  
27 standing with the respective department, or has entered into an  
28 agreement with the respective department that includes a practical  
29 corrective action plan, and the developer shall certify that any  
30 contractors or subcontractors performing work at the redevelopment  
31 project: a. are registered as required by "The Public Works  
32 Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et  
33 seq.); b. have not been debarred by the Department of Labor and  
34 Workforce Development from engaging in or bidding on Public  
35 Works Contracts in New Jersey; and c. possess a tax clearance  
36 certificate issued by the Division of Taxation in the Department of  
37 the Treasury. The rules and regulations adopted pursuant to this  
38 section shall also include a provision to require that, in any year in  
39 which the developer is not in substantial good standing with the  
40 Department of Labor and Workforce Development, the Department  
41 of Environmental Protection, or the Department of the Treasury, the  
42 developer may forfeit all tax credits awarded in that year, and to  
43 allow the authority to extend, in individual cases, the deadline for  
44 any annual reporting requirement established pursuant to this  
45 section.

46 b. Notwithstanding any provision of the "Administrative  
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the

1 contrary, the chief executive officer of the authority may adopt,  
2 immediately upon filing with the Office of Administrative Law,  
3 rules and regulations necessary to implement the provisions of  
4 P.L. , c. (pending before the Legislature as this bill). The rules  
5 and regulations adopted pursuant to this section shall be effective  
6 for a period not to exceed 365 days following the date of filing and  
7 may thereafter be amended, adopted, or readopted by the director in  
8 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
9 et seq.).  
10 (cf: P.L.2021, c.160, s.10)  
11

12 11. This act shall take effect immediately, except that: sections  
13 2 and 3 shall apply retroactively to unapproved applications  
14 pending before December 1, 2023; sections 1 and 4 shall take effect  
15 upon adoption of the rules in accordance with section 3 and shall  
16 apply to applications received by the authority after such date; and  
17 sections 5 through 9 shall take effect upon adoption of the rules in  
18 accordance with section 10 and shall apply to applications received  
19 by the authority after such date.  
20

21

22

## STATEMENT

23

24 This bill revises various provisions of the “New Jersey Economic  
25 Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.)  
26 concerning the Historic Property Reinvestment Program and the  
27 Brownfields Redevelopment Incentive Program.  
28

29

### *The Historic Property Reinvestment Program*

30 The bill revises the amount of credits that may be awarded to  
31 eligible business entities under the program. Specifically, the bill  
32 increases the maximum size of tax credits awarded under the  
33 program and allows for certain facade rehabilitation projects to be  
34 eligible for a tax credit award.

35 Under the bill, the credits awarded for the rehabilitation of a  
36 qualified property located in a qualified incentive tract or  
37 government-restricted municipality are increased to 60 percent of  
38 the cost of rehabilitation or \$12 million, whichever is less. Under  
39 current law, these credit amounts are equal to 45 percent of the cost  
40 of rehabilitation or \$8 million, whichever is less. The credits  
41 awarded for the rehabilitation of any other qualified property, other  
42 than a transformative project, are also increased to 50 percent of the  
43 cost of rehabilitation or \$8 million, whichever is less. Under  
44 current law, these credit amounts are equal to 40 percent of the cost  
45 of rehabilitation or \$4 million, whichever is less. The bill also  
46 revises the tax credit eligibility requirement for a business to  
47 demonstrate a project financing gap to apply only to projects

1 located outside of a government-restricted municipality that have a  
2 total rehabilitation cost or total façade rehabilitation cost of at least  
3 \$5 million.

4 The bill provides the Economic Development Authority (EDA)  
5 with the discretion to make up to 50 percent of the tax credits  
6 available for distribution in a given year to be made available for  
7 facade rehabilitation projects. The value of tax credits awarded to a  
8 facade rehabilitation project are 50 percent of the project's cost of  
9 façade rehabilitation, up to a maximum of \$4 million. The bill  
10 defines "facade rehabilitation projects" to mean a project consisting  
11 of the repair or reconstruction of exterior building features,  
12 including but not limited to structural components embedded within  
13 exterior walls, masonry units and mortar, exterior siding fabric,  
14 doors, windows, exterior lighting fixtures, and decorative  
15 components, such as metalwork, terracotta units and cast stone  
16 which constitute the facades of a qualified property or  
17 transformative property.

18

19 *The Brownfields Redevelopment Incentive Program*

20 The bill revises various provisions relating to the application  
21 process for a developer and, following authority approval of the  
22 application, the subsequent redevelopment agreement between a  
23 developer and the authority. The bill also provides that the EDA  
24 would accept applications on a rolling basis, unless the EDA  
25 determines that the demand for tax credits is likely to exceed the  
26 availability of credits, in which case applications would be  
27 reviewed on a competitive basis and submitted before a date certain.

28 Under the bill, the value of credits awarded for the remediation  
29 of a redevelopment project located in a qualified incentive tract or  
30 government-restricted municipality is increased to up to 80 percent  
31 of the actual remediation costs, 80 percent of the projected  
32 remediation costs set forth in the redevelopment agreement, or \$12  
33 million, whichever is less. Under current law, these credit amounts  
34 are equal to 60 percent of the actual remediation costs, 60 percent  
35 of the projected remediation costs set forth in the redevelopment  
36 agreement, or \$8 million, whichever is less.

37 The bill specifies the amount of tax credits that may be awarded  
38 for a redevelopment project erecting a solar panel array on the site  
39 of a closed sanitary landfill. If the project is located in a qualified  
40 incentive tract or a government-restricted municipality, the value of  
41 the tax credit would be in an amount equal to 100 percent of the  
42 costs of remediation or \$12 million, whichever is less. If the  
43 project is located anywhere else in the State, the value of tax credit  
44 would be in an amount equal to 100 percent of the costs of  
45 remediation or \$8 million, whichever is less.

46 Under the bill, the value of credits awarded for the remediation  
47 of all other redevelopment projects is increased to up to 60 percent

1 of the actual remediation costs, 60 percent of the projected  
2 remediation costs set forth in the redevelopment agreement, or \$8  
3 million, whichever is less. Under current law, these credit amounts  
4 are equal to 50 percent of the actual remediation costs, 50 percent  
5 of the projected remediation costs set forth in the redevelopment  
6 agreement, or \$4 million, whichever is less.

7

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11 \_\_\_\_\_  
12 Modifies certain provisions of Historic Property Reinvestment  
and Brownfields Redevelopment Incentive programs.

## CHAPTER 61

AN ACT concerning the “Historic Property Reinvestment Act” and “Brownfields Redevelopment Incentive Program Act” and amending P.L.2020, c.156.

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

1. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to read as follows:

C.34:1B-271 Definitions.

3. As used in sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276):

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

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

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

"Cost of rehabilitation" means the consideration given, valued in money, whether given in money or otherwise, for the materials and services which constitute the rehabilitation and includes all costs associated with the structural components within a qualified property or transformative property and any soft costs associated with a rehabilitation project, except not including any costs associated with an increase in total building volume.

"Cost of facade rehabilitation" means the consideration given, valued in money, whether given in money or otherwise, for the materials and services which constitute the facade rehabilitation project, including all costs associated with necessary work to address structural components embedded within exterior walls, repair, reconstruction, or replacement of masonry units and mortar, exterior siding fabric, doors, windows, exterior lighting fixtures, and decorative components, such as metalwork, terracotta units, and cast stone, except not including any costs associated with demolition or interior construction.

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

"Exterior building features" include, but shall not be limited to, structural components embedded within exterior walls, masonry units and mortar, exterior siding fabric, doors, windows, exterior lighting fixtures, and decorative components, such as metalwork, terracotta units, and cast stone.

"Facade rehabilitation project" means a project consisting of the repair or reconstruction of exterior building features which constitute the facades of a qualified property or transformative property while preserving the portions or features of the property that have significant historical, architectural, and cultural values.

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

the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

"Income producing property" means a structure or site that is used in a trade or business or to produce rental income.

"New Jersey S corporation" means the same as the term is defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

"Officer" means the State Historic Preservation Officer or the official within the State designated by the Governor or by statute in accordance with the provisions of chapter 3023 of Title 54, United States Code (54 U.S.C. s.302301 et seq.), to act as liaison for the purpose of administering historic preservation programs in the State.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

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

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

"Qualified property" means a property, including structures, site improvements, and landscape features, assessed as real property that is used for a commercial purpose, a residential rental purpose, provided the structure contains at least four dwelling units, or any combination thereof; that is located in the State of New Jersey; that is income producing; and that is:

a. (1) individually listed, or located in a district listed on the National Register of Historic Places in accordance with the provisions of chapter 3021 of Title 54, United States Code (54 U.S.C. s.302101 et seq.), or on the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or individually designated, or located in a district designated, by the Pinelands Commission as a historic resource of significance to the Pinelands in accordance with the Pinelands comprehensive management plan adopted pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

(2) if located within a district, certified by either the officer or the Pinelands Commission, as appropriate, as contributing to the historic significance of the district;

b. (1) individually identified or registered, or located in a district composed of properties identified or registered, for protection as significant historic resources in accordance with criteria established by a municipality in which the property or district is located if the criteria for identification or registration has been approved by the officer as suitable for substantially

achieving the purpose of preserving and rehabilitating buildings of historic significance within the jurisdiction of the municipality, and

(2) if located within a district, certified by the officer as contributing to the historic significance of the district; or

c. (1) preliminarily determined by the National Park Service to be of historic significance in accordance with the requirements of 36 C.F.R. s.67.3 and 36 C.F.R. s.67.4; and

(2) within one year of the issuance of the tax credits, listed on the New Jersey Register of Historic Places in accordance with the "New Jersey Register of Historic Places Act," P.L.1970, c.268 (C.13:1B-15.128 et seq.) and the New Jersey Register of Historic Places rules, N.J.A.C.7:4-1 et seq., as adopted by the Department of Environmental Protection and administered through the Historic Preservation Office. Failure to be listed on the New Jersey Register of Historic Places within one year of issuance of the tax credit shall result in the recapture of the tax credit.

"Rehabilitation" means the repair or reconstruction of the exterior or interior, including, but not limited to, structural or substrate components and electrical, plumbing, and heating components, of a qualified property or transformative project to make an efficient contemporary use possible while preserving the portions or features of the property that have significant historical, architectural, and cultural values.

"Selected rehabilitation period" means a period of 36 months if the beginning of such period is chosen by the business entity during which, or parts of which, a rehabilitation is occurring, or a period of 60 months if a rehabilitation is reasonably expected to be completed in distinct phases set forth in written architectural plans and specifications completed before or during the physical work on the rehabilitation.

"Structural components" means the same as that term is defined in 26 C.F.R. s.1.48-1.

"Total cost of rehabilitation" means any costs incurred for, and in connection with, the rehabilitation project by the business entity and any affiliate of the business entity until the issuance of a permanent certificate of occupancy, or upon such other event evidencing project completion as set forth in the rehabilitation agreement, and includes, but is not limited to, project costs, soft costs, and cost of acquisition of land and buildings.

"Total cost of facade rehabilitation project" means any costs incurred for, and in connection with, the facade rehabilitation project by the business entity and any affiliate of the business entity until the issuance of a permanent certificate of occupancy, or upon such other event evidencing project completion as set forth in the rehabilitation agreement, and includes, but is not limited to, project costs, soft costs, and cost of acquisition of land and buildings.

"Transformative project" means a property that is:

a. an income producing property, not including a residential property, whose rehabilitation the authority determines will generate substantial increases in State revenues through the creation of increased business activity within the surrounding area;

b. individually listed on the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and which, before the enactment of P.L.2020, c.156 (C.34:1B-269 et al.), received a Determination of Eligibility from the Keeper of the National Register of Historic Places in accordance with the provisions of Part 60 of Title 36 of the Code of Federal Regulations; and

c. (1) located within a one-half mile radius of the center point of a transit village, as designated by the New Jersey Department of Transportation, and located within a city of the first class, as classified under N.J.S.40A:6-4; or (2) located within a government-restricted municipality.

2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to read as follows:

C.34:1B-272 Tax credit.

4. a. (1) A business entity, upon successful application to the New Jersey Economic Development Authority, and commitment to the authority to pay each worker employed to perform construction work and building services work at the qualified property or transformative project a wage not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, for a portion of the cost of rehabilitation paid by the business entity for the rehabilitation of a qualified property or transformative project, if the cost of rehabilitation during a business entity's selected rehabilitation period is not less than the greater of (a) the adjusted basis of the structure of the qualified property or transformative project used for federal income tax purposes as of the beginning of the business entity's selected rehabilitation period, or (b) \$5,000. The amount of the credit claimed in any accounting or privilege period shall not reduce the amount of the tax liability to less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

(2) The amount of credit allowed to a business entity pursuant to this section shall be as follows:

(a) for the rehabilitation of a qualified property located in a qualified incentive tract or government-restricted municipality, 60 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of the qualified property or \$12 million, whichever is less;

(b) for the rehabilitation of a transformative project, 45 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of the transformative project or \$50 million, whichever is less; and

(c) for the rehabilitation of any other qualified property not subject to provisions of subparagraph (a) or (b) of this paragraph, 50 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of the qualified property or \$8 million, whichever is less.

(3) The prevailing wage requirement for construction work shall apply at a qualified property or transformative project during the selected rehabilitation period, and the prevailing wage requirement for building services work shall apply at a qualified property or transformative project for 10 years following completion of the rehabilitation work at the qualified property or transformative project. In the event a qualified property or transformative project, or the aggregate of all qualified properties and transformative projects approved for awards under the program, constitute a lease of more than 35 percent of a facility, the prevailing wage requirements shall apply to the entire facility.

(4) Prior to approval of an application by the authority, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the business entity is in substantial good standing with the respective department or has entered into an agreement with the respective department that includes a practical corrective action plan for the business entity. The business entity shall certify that any contractors or subcontractors that perform work at the qualified property or transformative project: (a) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) have not been debarred by Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and (c) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also

contract with an independent third party to perform a background check on the business entity. Following approval of an application by the authority, but prior to the start of any construction or rehabilitation at the qualified property or transformative project, the authority shall enter into a rehabilitation agreement with the business entity. The authority shall negotiate the terms and conditions of the rehabilitation agreement on behalf of the State.

(5) A rehabilitation project shall be eligible for a tax credit only if the business entity demonstrates to the authority at the time of application that:

(a) without the tax credit, the rehabilitation project is not economically feasible; and

(b) a project financing gap exists for a rehabilitation project that has a total rehabilitation cost or total facade rehabilitation cost equal to or greater than \$5 million and is located outside of a government-restricted municipality.

(6) For the purposes of paragraph (4) of this subsection, the start of any construction or rehabilitation shall not be deemed to include:

(a) work approved by the New Jersey Historic Trust or the New Jersey State Historic Preservation Office as meeting the Secretary of the Interior's Standards for Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal Regulations (36 C.F.R. s.67.7);

(b) work ordered by a building code or other official with jurisdiction over the site of the qualified property or transformative project to correct a health, safety, or other hazard and completed in accordance with the Secretary of the Interior's Standards for Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal Regulations (36 C.F.R. s.67.7);

(c) work completed more than two years prior to the date of application; or

(d) work completed within two years of application and in accordance with the Secretary of the Interior's Standards for Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal Regulations (36 C.F.R. 67.7).

(7) Any work completed before the start of construction or rehabilitation may be considered as part of the project, but shall not be a cost of rehabilitation or cost of facade rehabilitation.

b. A business entity may claim a credit under this section during the accounting or privilege period: (1) in which it makes the final payment for the cost of the rehabilitation if the business entity has chosen a selected rehabilitation period of 24 months; or (2) in which a distinct project phase of the rehabilitation is completed if the business entity has chosen a selected rehabilitation period of 60 months. The credit may be claimed against any State tax, listed in paragraph (1) of subsection a. of this section, liability otherwise due after any other credits permitted pursuant to law have been applied. The amount of credit claimed in an accounting or privilege period that cannot be applied for that accounting or privilege period due to limitations in this section may be transferred pursuant to section 5 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to the nine accounting or privilege periods following the accounting or privilege period for which the credit was allowed.

c. A business entity shall submit to the authority satisfactory evidence of the actual cost of rehabilitation, as certified by a certified public accountant, evidence of completion of the rehabilitation or phase, and a certification that all information provided by the business entity to the authority is true, including information contained in the application, the rehabilitation agreement, any amendment to the rehabilitation agreement, and any other information submitted by the business entity to the authority pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). The business entity, or an authorized agent of the business entity, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

3. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to read as follows:

C.34:1B-274 Rules, regulations.

6. a. The authority shall, in consultation with the officer and the director, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as the officer deems necessary to administer the provisions of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), including but not limited to rules establishing administrative fees to implement the provisions of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), and setting of an annual application submission date, requiring annual reporting by each business entity that receives a tax credit pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). As part of the authority's review of the annual reports required from each business entity that receives a tax credit, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that: the business entity is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the business entity, and the business entity shall certify that any contractors or subcontractors performing work at the qualified property or transformative project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The rules and regulations adopted pursuant to this section shall also include a provision to require that business entities forfeit all tax credits awarded in any year in which the Department of Labor and Workforce Development, the Department of Environmental Protection, or the Department of the Treasury advises the authority that the business entity is not in substantial good standing nor has the business entity entered into an agreement with the respective department that includes a practical corrective action plan, and to allow the authority to extend, in individual cases, the deadline for any annual reporting or certification requirement established pursuant to this section.

b. For every tax credit allowed pursuant to section 4 of P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with the officer, shall certify to the director: the total cost of rehabilitation or total cost of facade rehabilitation project; that the property meets the definition of qualified property or transformative project, as applicable; and that the rehabilitation or facade rehabilitation project has been completed in substantial compliance with the requirements of the Secretary of the Interior's Standards for Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal Regulations. The business entity shall attach the certification to the tax return on which the business entity claims the credit.

c. (1) The total amount of credits approved by the authority pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) shall not exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). For the purpose of determining the aggregate value of tax credits approved in a fiscal year, a tax credit shall be deemed to have been approved at the time the authority approves an application for an award of a tax credit. If the authority approves less than the total amount of tax credits authorized pursuant to this subsection in a fiscal year, the remaining amount, plus any amounts remaining from previous fiscal years, shall be added to the limit of subsequent fiscal years until that amount of tax credits are claimed or allowed. Any unapproved, uncertified, or recaptured portion of tax credits during any fiscal year may be carried over and reallocated in succeeding years.

(2) Notwithstanding the provisions of paragraph (1) of this subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the contrary, the authority may approve tax credits, pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), for the rehabilitation of a transformative project in an amount that causes the total amount of credits approved during the fiscal year to exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362), provided that the amount of the excess shall be subtracted from the total amount of credits that may be approved by the authority in the subsequent fiscal year, and the amount of the excess shall not exceed 50 percent of the total tax credits otherwise authorized for the fiscal year.

(3) The authority, in consultation with the officer, shall devise criteria for allocating tax credit amounts if the approved amounts combined exceed the total amount in each fiscal year, including rules that allocate over multiple fiscal years a single credit amount granted in excess of \$2,000,000. The criteria shall include a project's historic importance, positive impact on the surrounding neighborhood, economic sustainability, geographic diversity, and consistency with Statewide growth and development policies and plans.

(4) At the authority's discretion, up to 50 percent of the tax credits available for distribution in any given year may be allocated to facade rehabilitation projects. The amount of credit allowed to a business entity pursuant to this paragraph shall be 50 percent of the cost of facade rehabilitation for a project or \$4 million, whichever is less. The tax credits allocated pursuant to this paragraph shall be awarded through a competitive application process whereby the authority shall evaluate all applications submitted by a date certain, as if all received applications were submitted on that date. Notwithstanding the provisions of section 4 of P.L.2020, c.156 (C.34:1B-272), a project financing gap analysis shall not be required for the submission or approval of these applications. When scoring applications, the authority shall consider factors including, but not limited to: the retention of existing historic fabric versus demolition; building location, with preference given to buildings that contribute to the historic significance of a historic district; and the amount of community support for the project.

d. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately upon filing with the Office of Administrative Law, rules and regulations necessary to implement the provisions of P.L.2024, c.61. The rules and regulations adopted pursuant to this section shall be effective for a period not to exceed 365 days following the date of filing and may thereafter be amended, adopted, or readopted by the director in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

4. Section 7 of P.L.2020, c.156 (C.34:1B-275) is amended to read as follows:

C.34:1B-275 Rules for recapture of tax credit amount.

7. a. The authority, in collaboration with the director, shall adopt rules for the recapture of an entire or partial tax credit amount allowed under sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). The rules shall require the authority to notify the director of the recapture of an entire or partial tax credit amount. Recaptured funds shall be deposited in the General Fund of the State.

b. If, before the end of five full years after the completion of the rehabilitation of the qualified property or transformative project, a developer that has received a tax credit pursuant to section 4 of P.L.2020, c.156 (C.34:1B-272) modifies the qualified property or transformative project so that it ceases to meet the requirements for the rehabilitation of a qualified property or transformative project as defined under the program or ceases to meet the

requirement of the rehabilitation agreement then the tax credit allowed under the program shall be recaptured in accordance with the rules adopted pursuant to subsection a. of this section.

c. In the case of a business entity that has chosen a selected rehabilitation period of 60 months, if the architectural plans change in the course of the phased rehabilitation project so that the rehabilitation of the qualified property or transformative project would, upon the rehabilitation's completion, no longer qualify for a tax credit pursuant to the requirements of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), then the tax credits issued shall be subject to recapture. Any portion of the tax credit that the business entity has not yet used at the time of the disallowance by the officer shall be deemed void.

5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to read as follows:

C.34:1B-278 Definitions.

10. As used in sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287): "Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

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

"Brownfield site" means any real property in this State that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant or on which there is contaminated building material.

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

"Contaminated building material" means components of a structure where abatement or removal of asbestos, or remediation of materials containing hazardous substances defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by applicable federal, state, or local rules or regulations.

"Contamination" or "contaminant" means any discharged hazardous substance as defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or contaminated building material.

"Department" means the Department of Environmental Protection.

"Developer" means any person that enters or proposes to enter into a redevelopment agreement with the authority pursuant to the provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

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

"Equity" means developer-contributed capital that may consist of cash, costs for project feasibility incurred within the 12 months prior to application, property value less any mortgages when the developer owns the project site, and any other investment by the developer in the project that the authority deems acceptable. Property value shall be an amount equal to the lesser of: (1) the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or (2) the value as determined by a current appraisal acceptable to the authority. "Equity" includes federal or local grants and proceeds

from the sale of federal or local tax credits, including, but not limited to, any federal tax credits that the redevelopment receives pursuant to section 42 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.42) and section 45D of the federal Internal Revenue Code of 1986 (26 U.S.C. s.45D). "Equity" shall not include State grants or tax credits or proceeds from redevelopment area bonds. For a residential project utilizing low income tax credits awarded by the New Jersey Housing and Mortgage Financing Agency pursuant to section 19 of P.L.2008, c.46 (C.52:27D-321.1), "equity" includes the portion of the developer's fee that is deferred for a minimum of five years.

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

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

"Licensed site remediation professional" means an individual who is licensed by the Site Remediation Professional Licensing Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

"Program" means the Brownfields Redevelopment Incentive Program established by section 11 of P.L.2020, c.156 (C.34:1B-279).

"Project financing gap" means the part of the total remediation cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total remediation cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources; provided, however, that for a redevelopment project located in a government-restricted municipality, the developer contributed capital shall not be less than 10 percent of the cost of

rehabilitation. When an applicant is proposing a new project, the project financing gap shall consider the cost of the full project, but the award size shall be based on remediation costs. Developer contributed capital may consist of cash, deferred development fees, costs for project feasibility incurred within the 12 months prior to application, property value less any mortgages when the developer owns the project site, and any other investment by the developer in the project deemed acceptable by the authority, as provided by regulations promulgated by the authority. Property value shall be valued at the lesser of either: a. the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or b. the value as determined by a current appraisal.

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

"Redevelopment agreement" means an agreement between the authority and a developer under which the developer agrees to perform any work or undertaking necessary for the remediation of a brownfield site located at the site of the redevelopment project.

"Redevelopment project" means a specific remediation project undertaken, pursuant to the terms of a redevelopment agreement, by a developer within an area of land whereon a brownfield site is located.

"Remediation" or "remediate" means all necessary actions to investigate and clean up or respond to any known, suspected, or threatened discharge of contaminants, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, or any portion thereof, as those terms are defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and hazardous materials abatement; hazardous materials or waste disposal; building and structural remedial activities, including, but not limited to, demolition, asbestos abatement, polychlorinated biphenyl removal, improvement and capping of landfills, contaminated wood or paint removal, or other infrastructure remedial activities, provided, however, "remediation" or "remediate" shall not include the payment of compensation for damage to, or loss of, natural resources.

"Remediation costs" means all reasonable costs associated with the remediation of a contaminated site, except any costs incurred in financing the remediation.

6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to read as follows:

C.34:1B-280 Application for tax credit.

12. a. A developer seeking a tax credit for a redevelopment project shall submit an application to the authority and the department in a form and manner prescribed in regulations adopted by the authority, in consultation with the department, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. A redevelopment project shall be eligible for a tax credit only if the developer demonstrates to the authority and the department at the time of application that:

(1) except as ordered by a government official with jurisdiction over the brownfield site or certified by a licensed site remediation professional to correct or prevent the spread of a health, safety, or other hazard, and as provided in subsection j. of this section, the developer has not commenced any remediation or clean up at the site of the redevelopment project, except for preliminary assessments and investigations, prior to applying for a tax credit pursuant to this section, but intends to remediate the site immediately upon approval of the tax credit;

(2) the redevelopment project is located on a brownfield site;

(3) without the tax credit, the redevelopment project is not economically feasible;

(4) a project financing gap exists for projects located outside of a government-restricted municipality that have a total remediation cost of \$5,000,000 or greater;

(5) the developer shall obtain and submit to the authority, before approval by the board, a letter evidencing support for the redevelopment project from the governing body of the municipality in which the redevelopment project is located; and

(6) each worker employed to perform remediation, construction, or building services work at the redevelopment project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.). The prevailing wage requirements shall apply for remediation or construction work through the completion of the redevelopment project, and the prevailing wage requirements shall apply for building services work at the site of the redevelopment project for 10 years following completion of the redevelopment project. In the event a redevelopment project, or the aggregate of all redevelopment projects approved for an award under the program, constitute a lease of more than 35 percent of a facility, the prevailing wage requirements shall apply to the entire facility.

c. A redevelopment project that received a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) shall not be eligible to apply for a tax credit under the program. If the authority receives an application and supporting documentation for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) prior to the effective date of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the authority may consider the application and award a tax credit to a developer, provided that the authority shall take final action on all applications for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) no later than July 1, 2019. No applications shall be submitted pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) after the effective date of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

d. (1) Prior to approval of an application, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The authority may also contract with an independent third party to perform a background check on the developer. The developer shall certify that any contractors or subcontractors that perform work at the redevelopment project: (a) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey, and (c) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. Provided that the developer is in substantial good standing with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury, or has entered into such an agreement, and following approval of an application by the board, the authority shall enter into a redevelopment agreement with the developer, as provided for in section 13 of P.L.2020, c.156 (C.34:1B-281).

(2) The authority, in consultation with the department, may impose additional requirements upon an applicant through rule or regulation adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority or the

department determines the additional requirements to be necessary and appropriate to effectuate the purposes of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

e. The authority, in consultation with the department, shall conduct a review of the applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, and then through a competitive application process whereby the authority and the department shall evaluate all applications submitted by a date certain, as if all received applications were submitted on that date. To receive a tax credit award, a developer's application shall meet a minimum score, as determined by the authority. In addition to the eligibility criteria set forth in subsection b. of this section, the authority, in consultation with the department, may consider additional factors that may include, but shall not be limited to: the economic feasibility of the redevelopment project; the benefit of the redevelopment project to the community in which the remediation project is located; the degree to which the redevelopment project enhances and promotes economic development and reduces environmental or public health stressors in an overburdened community, as those terms are defined by section 2 of P.L.2020, c.92 (C.13:1D-158), and attendant department regulations; and, if the developer has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the redevelopment project is located. The authority, in consultation with the department, shall submit applications that comply with the eligibility criteria set forth in this section, fulfill the additional factors considered by the authority pursuant to this subsection, satisfy the submission requirements, and provide adequate information for the subject application, to the board for final approval.

f. The authority shall award tax credits to redevelopment projects until either the available tax credits are exhausted or all redevelopment projects that are eligible for a tax credit pursuant to the provisions of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a developer in accordance with the provisions of subsection a. of section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may offer the developer a value of the tax credit below the amount provided for in subsection a. of section 16 of P.L.2020, c.156 (C.34:1B-284).

g. A developer shall pay to the authority or to the department, as appropriate, the full amount of the direct costs of an analysis concerning the developer's application for a tax credit, which a third party retained by the authority or department performs, if the authority or department deems such retention to be necessary.

h. If the authority determines that a developer made a material misrepresentation on the developer's application, the developer shall forfeit all tax credits awarded under the program.

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

j. A developer who has commenced remediation or clean up at the site and who could not reasonably have known the full extent of the site contamination prior to commencing the remediation may still apply for a tax credit under the program, if the developer certifies to the authority, under the penalty of perjury, that the developer cannot reasonably finish the remediation and commence the redevelopment project absent the tax credit.

7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to read as follows:

C.34:1B-281 Redevelopment agreement.

13. a. Following approval of an application by the board, but prior to the start of any remediation or clean up at the site of the redevelopment project, except activities disclosed at the time of approval or those in accordance with section 12 of P.L.2020, c.156 (C.34:1B-280), the authority shall enter into a redevelopment agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the redevelopment agreement on behalf of the State.

b. The redevelopment agreement shall specify the amount of the tax credit to be awarded to the developer, the date on which the developer shall complete the remediation, and the projected project remediation cost. The redevelopment agreement shall require the developer to submit progress reports to the authority and to the department every six months pursuant to section 15 of P.L.2020, c.156 (C.34:1B-283).

c. The authority shall not enter into a redevelopment agreement with a developer unless:

(1) the redevelopment project complies with standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction;

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

(3) the developer pays each worker employed to perform remediation work, construction work, or building services work at the redevelopment project not less than the prevailing wage rate in accordance with the requirements of paragraph (6) of subsection b. of section 12 of P.L.2020, c.156 (C.34:1B-280) for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

d. The authority shall not enter into a redevelopment agreement unless the developer demonstrates, to the satisfaction of the Department of Environmental Protection, that the developer did not discharge a hazardous substance at the brownfield site proposed to be in the redevelopment agreement and is not a corporate successor to the discharger, to any person in any way responsible for the hazardous substance, or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

e. (1) Except as provided in paragraph (2) of this subsection, the authority shall not enter into a redevelopment agreement for a redevelopment project that includes at least one retail establishment that will have more than 10 employees or at least one distribution center that will have more than 20 employees, unless the redevelopment agreement includes a precondition that any business that serves as the owner or operator of the retail establishment or distribution center enters into a labor harmony agreement with a labor organization or cooperating labor organizations which represent retail or distribution center employees in the State.

(2) A labor harmony agreement shall be required only if the State has a proprietary interest in the redevelopment project and shall remain in effect for as long as the State acts as a market participant in the redevelopment project. The authority may enter into a redevelopment agreement with a developer without the labor harmony agreement required under paragraph (1) of this subsection only if the authority determines that the redevelopment project would not be feasible if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) (Deleted by amendment, P.L.2024, c.61)

f. The redevelopment agreement shall provide that issuance of a tax credit under the program shall be conditioned upon the subrogation to the department of all rights of the

developer to recover remediation costs from any other person who discharges a hazardous substance or is in any way responsible, pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous substance that was discharged at the brownfield site.

g. A developer may seek a revision to the redevelopment agreement if the developer cannot complete the remediation on or before the date set forth in the redevelopment agreement. A developer's ability to change the date on which the developer shall complete the remediation shall be subject to the availability of tax credits in the year of the revised date of completion.

h. A developer shall submit to the authority satisfactory evidence of the actual remediation costs, as certified by a certified public accountant, and a licensed site remediation professional for costs under the jurisdiction of the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as applicable, other appropriate licensed or certified professional for costs that are not under the jurisdiction of the "Site Remediation Reform Act," evidence of completion of the remediation as demonstrated by a Response Action Outcome where the remediation is subject to the "Site Remediation Reform Act," a certification from the appropriate licensed or certified professional for other remedial activities, and a certification that all information provided by the developer to the authority is true, including information contained in the application, the redevelopment agreement, any amendment to the redevelopment agreement, and any other information submitted by the developer to the authority pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287). The developer, or an authorized agent of the developer, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

i. The redevelopment agreement shall include a provision allowing the authority to recapture the tax credits for any year in which the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury that advises the authority that the developer is not in substantial good standing with the respective department, nor has the developer entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The redevelopment agreement shall also include a provision allowing the authority to recapture the tax credits for any year in which the developer fails to confirm that each contractor or subcontractor performing work at the redevelopment project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury.

8. Section 14 of P.L.2020, c.156 (C.34:1B-282) is amended to read as follows:

C.34:1B-282 Qualification for tax credit.

14. In addition to the submission of any additional evidence that the authority may request to verify that activities comply with local, state, and federal regulations, to qualify for a tax credit under the program, a developer shall, as applicable:

a. enter into an administrative consent order or other oversight document with the Commissioner of Environmental Protection in accordance with the provisions of section 37 of P.L.1997, c.278 (C.58:10B-29);

b. comply with the requirements set forth in subsection b. of section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of the site of the redevelopment project; or

c. comply with the rules, regulations, and guidelines by the federal government, the New Jersey Department of Labor and Workforce Development, the New Jersey Department of Health, and the New Jersey Department of Community Affairs regarding requirements for remediation of asbestos, contaminated paint, polychlorinated biphenyls, and other environmental hazards.

9. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to read as follows:

C.34:1B-284 Certification upon completion of redevelopment project.

16. a. Upon completion of the remediation, the developer shall seek certification from the authority, in consultation with the department, that:

- (1) the remediation is complete;
- (2) the developer complied with the requirements of section 14 of P.L.2020, c.156 (C.34:1B-282), as applicable, and section 15 of P.L.2020, c.156 (C.34:1B-283); and
- (3) the remediation costs were actually and reasonably incurred.

Upon receipt of certification, and confirmation by the authority that the developer's obligations under the redevelopment agreement have been met, a developer shall be awarded a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as follows: (a) for project located in a qualified incentive tract or government-restricted municipality, in an amount not to exceed 80 percent of the actual remediation costs, 80 percent of the projected remediation costs as set forth in the redevelopment agreement, or \$12,000,000, whichever is least; (b) for a project erecting a solar panel array on the site of a closed sanitary landfill, in an amount not to exceed 100 percent of the costs of remediation and capping of the landfill, \$12,000,000 if the project is located in a qualified incentive tract or government-restricted municipality, or \$8,000,000 if the project is located anywhere else in the State, whichever is least; and (c) for all other projects, in an amount not to exceed 60 percent of the actual remediation costs, 60 percent of the projected remediation costs as set forth in the redevelopment agreement, or \$8,000,000, whichever is least. The developer, or an authorized agent of the developer, shall certify that the information provided to the department and the authority pursuant to this subsection is true under the penalty of perjury.

b. When filing an application for certification pursuant to subsection a. of this section, the developer shall submit to the department and the authority: (1) the total remediation costs incurred by the developer for the remediation of the subject property located at the site of the redevelopment project, as provided in the redevelopment agreement and certified by a certified public accountant, a licensed site remediation professional for costs under the jurisdiction of the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and, as applicable, other appropriate licensed or certified professional for costs that are not under the jurisdiction of the "Site Remediation Reform Act"; (2) evidence of completion of the remediation, as demonstrated by a Response Action Outcome where the remediation is subject to the "Site Remediation Reform Act"; (3) a certification from the appropriate licensed or certified professional for other remedial activities; (4) as applicable, information concerning the occupancy rate of any buildings or other work areas located on the property subject to the redevelopment agreement; and (5) such other information as the department deems necessary in order to make the certifications and findings pursuant to this section.

c. A developer shall apply the credit awarded against the developer's liability for the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,

c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during which the director awards the developer a tax credit pursuant to subsection a. of this section. A developer shall not carry forward any unused credit.

d. The director shall prescribe the order of priority of the application of the credit awarded under this section and any other credits allowed by law against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to read as follows:

C.34:1B-287 Regulations.

19. a. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority, in consultation with the Commissioner of Environmental Protection, may adopt, immediately upon filing with the Office of Administrative Law, regulations that the chief executive officer and commissioner deem necessary to implement the provisions of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which regulations shall be effective for a period not to exceed 360 days from the date of the filing. The chief executive officer, in consultation with the Commissioner of Environmental Protection, shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The rules shall require annual reporting by developers that receive tax credits pursuant to the program, in addition to the regular progress updates. As part of the authority's review of the annual reports required from a developer, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer shall certify that any contractors or subcontractors performing work at the redevelopment project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The rules and regulations adopted pursuant to this section shall also include a provision to require that, in any year in which the developer is not in substantial good standing with the Department of Labor and Workforce Development, the Department of Environmental Protection, or the Department of the Treasury, the developer may forfeit all tax credits awarded in that year, and to allow the authority to extend, in individual cases, the deadline for any annual reporting requirement established pursuant to this section.

b. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately upon filing with the Office of Administrative Law, rules and regulations necessary to implement the provisions of P.L.2024, c.61. The rules and regulations adopted pursuant to this section shall be effective for a period not to exceed 365 days following the date of filing and may thereafter be amended, adopted, or readopted by the director in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

11. This act shall take effect immediately, except that: sections 2 and 3 shall apply retroactively to unapproved applications pending before December 1, 2023; sections 1 and 4 shall take effect upon adoption of the rules in accordance with section 3 and shall apply to applications received by the authority after such date; and sections 5 through 9 shall take effect upon adoption of the rules in accordance with section 10 and shall apply to applications received by the authority after such date.

Approved September 4, 2024.

**ASSEMBLY, No. 4619**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED JUNE 20, 2024

**Sponsored by:**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex and Hudson)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex and Hudson)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Senator M. TERESA RUIZ**

**District 29 (Essex and Hudson)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

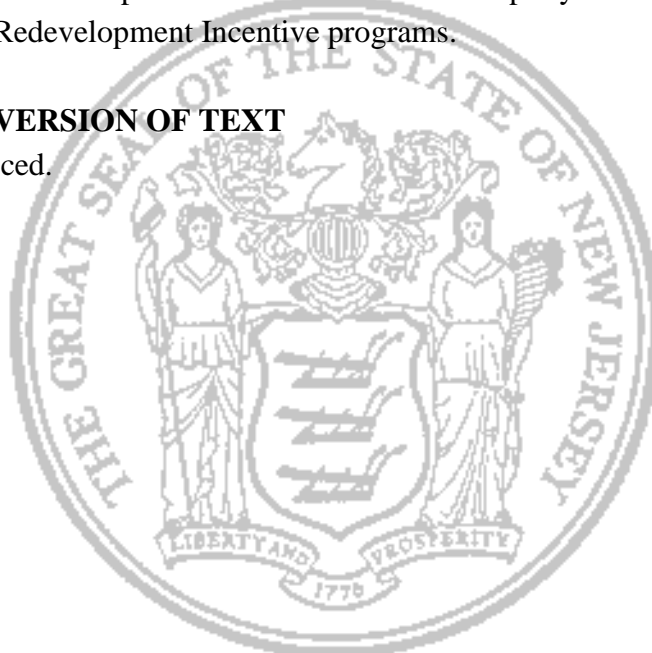
**Senator Timberlake**

**SYNOPSIS**

Modifies certain provisions of Historic Property Reinvestment and Brownfields Redevelopment Incentive programs.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/28/2024)**

1 AN ACT concerning the “Historic Property Reinvestment Act” and  
2 “Brownfields Redevelopment Incentive Program Act” and  
3 amending P.L.2020, c.156.

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

7  
8 1. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to  
9 read as follows:

10 3. As used in sections 2 through 8 of P.L.2020, c.156  
11 (C.34:1B-270 through C.34:1B-276):

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

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

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

28 "Cost of rehabilitation" means the consideration given, valued in  
29 money, whether given in money or otherwise, for the materials and  
30 services which constitute the rehabilitation, and includes all costs  
31 associated with the structural components within a qualified  
32 property or transformative property and any soft costs associated  
33 with a rehabilitation project, except not including any costs  
34 associated with an increase in total building volume.

35 "Cost of facade rehabilitation" means the consideration given,  
36 valued in money, whether given in money or otherwise, for the  
37 materials and services which constitute the facade rehabilitation  
38 project, and including all costs associated with necessary work to  
39 address structural components embedded within exterior walls,  
40 repair, reconstruction, or replacement of masonry units and mortar,  
41 exterior siding fabric, doors, windows, exterior lighting fixtures,  
42 and decorative components, such as metalwork, terracotta units, and  
43 cast stone, except not including any costs associated with  
44 demolition or interior construction.

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

3 "Exterior building features" include, but shall not be limited to,  
4 structural components embedded within exterior walls, masonry  
5 units and mortar, exterior siding fabric, doors, windows, exterior  
6 lighting fixtures, and decorative components, such as metalwork,  
7 terracotta units, and cast stone.

8 "Facade rehabilitation project" means a project consisting of the  
9 repair or reconstruction of exterior building features which  
10 constitute the facades of a qualified property or transformative  
11 property while preserving the portions or features of the property  
12 that have significant historical, architectural, and cultural values.

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

27 "Income producing property" means a structure or site that is  
28 used in a trade or business or to produce rental income.

29 "New Jersey S corporation" means the same as the term is  
30 defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

31 "Officer" means the State Historic Preservation Officer or the  
32 official within the State designated by the Governor or by statute in  
33 accordance with the provisions of chapter 3023 of Title 54, United  
34 States Code (54 U.S.C. s.302301 et seq.), to act as liaison for the  
35 purpose of administering historic preservation programs in the  
36 State.

37 "Partnership" means an entity classified as a partnership for  
38 federal income tax purposes.

39 "Project financing gap" means the part of the total cost of  
40 rehabilitation, including reasonable and appropriate return on  
41 investment, that remains to be financed after all other sources of  
42 capital have been accounted for, including, but not limited to,  
43 developer contributed capital, which shall not be less than 20  
44 percent of the total cost of rehabilitation, and investor or financial  
45 entity capital or loans for which the developer, after making all  
46 good faith efforts to raise additional capital, certifies that additional  
47 capital cannot be raised from other sources; provided, however, that  
48 for a redevelopment project located in a government-restricted

1 municipality, the developer contributed capital shall not be less than  
2 10 percent of the cost of rehabilitation. Developer contributed  
3 capital may consist of cash, deferred development fees, costs for  
4 project feasibility incurred within the 12 months prior to  
5 application, property value less any mortgages when the developer  
6 owns the project site, and any other investment by the developer in  
7 the project deemed acceptable by the authority, as provided by  
8 regulations promulgated by the authority. Property value shall be  
9 valued at the lesser of either: a. the purchase price, provided the  
10 property was purchased pursuant to an arm's length transaction  
11 within 12 months of application; or b. the value as determined by a  
12 current appraisal.

13 **["Property" means a structure, including its site improvements**  
14 **and landscape features, assessed as real property, and used for: a**  
15 **commercial purpose; a residential rental purpose, provided the**  
16 **structure contains at least four dwelling units; or any combination**  
17 **thereof.]**

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

24 "Qualified property" means a property, including structures, site  
25 improvements, and landscape features, assessed as real property,  
26 that is used for a commercial purpose, a residential rental purpose,  
27 provided the structure contains at least four dwelling units, or any  
28 combination thereof; that is located in the State of New Jersey; that  
29 is [an] income producing [property,] ; and that is:

30 a. (1) individually listed, or located in a district listed on the  
31 National Register of Historic Places in accordance with the  
32 provisions of chapter 3021 of Title 54, United States Code (54  
33 U.S.C. s.302101 et seq.), or on the New Jersey Register of Historic  
34 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or  
35 individually designated, or located in a district designated, by the  
36 Pinelands Commission as a historic resource of significance to the  
37 Pinelands in accordance with the Pinelands comprehensive  
38 management plan adopted pursuant to the "Pinelands Protection  
39 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

40 (2) if located within a district, certified by either the officer or  
41 the Pinelands Commission, as appropriate, as contributing to the  
42 historic significance of the district; **[or]**

43 b. (1) individually identified or registered, or located in a  
44 district composed of properties identified or registered, for  
45 protection as significant historic resources in accordance with  
46 criteria established by a municipality in which the property or  
47 district is located if the criteria for identification or registration has  
48 been approved by the officer as suitable for substantially achieving

1 the purpose of preserving and rehabilitating buildings of historic  
2 significance within the jurisdiction of the municipality, and

3 (2) if located within a district, certified by the officer as  
4 contributing to the historic significance of the district; or

5 c. (1) preliminarily determined by the National Park Service to  
6 be of historic significance in accordance with the requirements of  
7 36 C.F.R. s.67.3 and 36 C.F.R. s.67.4; and

8 (2) within one year of the issuance of the tax credits, listed on  
9 the New Jersey Register of Historic Places in accordance with the  
10 “New Jersey Register of Historic Places Act,” P.L.1970, c.268  
11 (C.13:1B-15.128 et seq.) and the New Jersey Register of Historic  
12 Places rules, N.J.A.C.7:4-1 et seq., as adopted by the Department of  
13 Environmental Protection and administered through the Historic  
14 Preservation Office. Failure to be listed on the New Jersey Register  
15 of Historic Places within one year of issuance of the tax credit shall  
16 result in the recapture of the tax credit.

17 "Rehabilitation" means the repair or reconstruction of the  
18 exterior or interior, including, but not limited to, structural or  
19 substrate components and electrical, plumbing, and heating  
20 components, of a qualified property or transformative project to  
21 make an efficient contemporary use possible while preserving the  
22 portions or features of the property that have significant historical,  
23 architectural, and cultural values.

24 **["Rehabilitation of the interior of the qualified property or**  
25 **transformative project" means the repair or reconstruction of the**  
26 **structural or substrate components and electrical, plumbing, and**  
27 **heating components within the interior of a qualified property or**  
28 **transformative project.]**

29 "Selected rehabilitation period" means a period of **[24]** 36  
30 months if the beginning of such period is chosen by the business  
31 entity during which, or parts of which, a rehabilitation is occurring,  
32 or a period of 60 months if a rehabilitation is reasonably expected to  
33 be completed in distinct phases set forth in written architectural  
34 plans and specifications completed before or during the physical  
35 work on the rehabilitation.

36 "Structural components" means the same as that term is defined  
37 in 26 C.F.R. s.1.48-1.

38 "Total cost of rehabilitation" means any costs incurred for, and in  
39 connection with, the rehabilitation project by the business entity and  
40 any affiliate of the business entity until the issuance of a permanent  
41 certificate of occupancy, or upon such other event evidencing  
42 project completion as set forth in the rehabilitation agreement, and  
43 includes, but is not limited to, project costs, soft costs, and cost of  
44 acquisition of land and buildings.

45 "Total cost of facade rehabilitation project" means any costs  
46 incurred for, and in connection with, the facade rehabilitation  
47 project by the business entity and any affiliate of the business entity  
48 until the issuance of a permanent certificate of occupancy, or upon

1 such other event evidencing project completion as set forth in the  
2 rehabilitation agreement, and includes, but is not limited to, project  
3 costs, soft costs, and cost of acquisition of land and buildings.

4 "Transformative project" means a property that is:

5 a. an income producing property, not including a residential  
6 property, whose rehabilitation the authority determines will  
7 generate substantial increases in State revenues through the creation  
8 of increased business activity within the surrounding area;

9 b. individually listed on the New Jersey Register of Historic  
10 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and  
11 which, before the enactment of P.L.2020, c.156 (C.34:1B-269 et  
12 al.), received a Determination of Eligibility from the Keeper of the  
13 National Register of Historic Places in accordance with the  
14 provisions of Part 60 of Title 36 of the Code of Federal  
15 Regulations; and

16 c. (1) located within a one-half mile radius of the center point  
17 of a transit village, as designated by the New Jersey Department of  
18 Transportation, and located within a city of the first class, as  
19 classified under N.J.S.40A:6-4; or (2) located within a government-  
20 restricted municipality.

21 (cf: P.L.2021, c.160, s.1)

22

23 2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to  
24 read as follows:

25 4. a. (1) A business entity, upon successful application to the  
26 New Jersey Economic Development Authority, and commitment to  
27 the authority to pay each worker employed to perform construction  
28 work and building services work at the qualified property or  
29 transformative project a wage not less than the prevailing wage rate  
30 for the worker's craft or trade, as determined by the Commissioner  
31 of Labor and Workforce Development pursuant to P.L.1963, c.150  
32 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax  
33 otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-  
34 5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-  
35 3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5,  
36 for a portion of the cost of rehabilitation paid by the business entity  
37 for the rehabilitation of a qualified property or transformative  
38 project, if the cost of rehabilitation during a business entity's  
39 selected rehabilitation period is not less than the greater of (a) the  
40 adjusted basis of the structure of the qualified property or  
41 transformative project used for federal income tax purposes as of  
42 the beginning of the business entity's selected rehabilitation period,  
43 or (b) \$5,000. The amount of the credit claimed in any accounting  
44 or privilege period shall not reduce the amount of the tax liability to  
45 less than the statutory minimum provided in subsection (e) of  
46 section 5 of P.L.1945, c.162 (C.54:10A-5).

47 (2) The amount of credit allowed to a business entity pursuant to  
48 this section shall be as follows:

- 1 (a) for the rehabilitation of a qualified property located in a  
2 qualified incentive tract or government-restricted municipality,  
3 ~~【45】~~ 60 percent of the cost of rehabilitation paid by the business  
4 entity for the rehabilitation of the qualified property or ~~【\$8】~~ \$12  
5 million, whichever is less;
- 6 (b) for the rehabilitation of a transformative project, 45 percent  
7 of the cost of rehabilitation paid by the business entity for the  
8 rehabilitation of the transformative project or \$50 million,  
9 whichever is less; and
- 10 (c) for the rehabilitation of any other qualified property not  
11 subject to provisions of subparagraph (a) or (b) of this paragraph,  
12 ~~【40】~~ 50 percent of the cost of rehabilitation paid by the business  
13 entity for the rehabilitation of the qualified property or ~~【\$4】~~ \$8  
14 million, whichever is less.
- 15 (3) The prevailing wage requirement for construction work shall  
16 apply at a qualified property or transformative project during the  
17 selected rehabilitation period, and the prevailing wage requirement  
18 for building services work shall apply at a qualified property or  
19 transformative project for 10 years following completion of the  
20 rehabilitation work at the qualified property or transformative  
21 project. In the event a qualified property or transformative project,  
22 or the aggregate of all qualified properties and transformative  
23 projects approved for awards under the program, constitute a lease  
24 of more than 35 percent of a facility, the prevailing wage  
25 requirements shall apply to the entire facility.
- 26 (4) Prior to approval of an application by the authority, the  
27 authority shall confirm with the Department of Labor and  
28 Workforce Development, the Department of Environmental  
29 Protection, and the Department of the Treasury whether the  
30 business entity is in substantial good standing with the respective  
31 department or has entered into an agreement with the respective  
32 department that includes a practical corrective action plan for the  
33 business entity. The business entity shall certify that any  
34 contractors or subcontractors that perform work at the qualified  
35 property or transformative project: (a) are registered as required by  
36 "The Public Works Contractor Registration Act," P.L.1999, c.238  
37 (C.34:11-56.48 et seq.); (b) have not been debarred by Department  
38 of Labor and Workforce Development from engaging in or bidding  
39 on Public Works Contracts in New Jersey; and (c) possess a tax  
40 clearance certificate issued by the Division of Taxation in the  
41 Department of the Treasury. The authority may also contract with  
42 an independent third party to perform a background check on the  
43 business entity. Following approval of an application by the  
44 authority, but prior to the start of any construction or rehabilitation  
45 at the qualified property or transformative project, the authority  
46 shall enter into a rehabilitation agreement with the business entity.  
47 The authority shall negotiate the terms and conditions of the  
48 rehabilitation agreement on behalf of the State.

1 (5) A rehabilitation project shall be eligible for a tax credit only  
2 if the business entity demonstrates to the authority at the time of  
3 application that:

4 (a) without the tax credit, the rehabilitation project is not  
5 economically feasible; and

6 (b) a project financing gap exists for a rehabilitation project that  
7 has a total rehabilitation cost or total facade rehabilitation cost  
8 equal to or greater than \$5 million and is located outside of a  
9 government-restricted municipality.

10 (6) For the purposes of paragraph (4) of this subsection, the start  
11 of any construction or rehabilitation shall not be deemed to include:

12 (a) work approved by the New Jersey Historic Trust or the New  
13 Jersey State Historic Preservation Office as meeting the Secretary  
14 of the Interior's Standards for Rehabilitation pursuant to section  
15 67.7 of Title 36, Code of Federal Regulations (36 C.F.R. s.67.7);

16 (b) work ordered by a building code or other official with  
17 jurisdiction over the site of the qualified property or transformative  
18 project to correct a health, safety, or other hazard and completed in  
19 accordance with the Secretary of the Interior's Standards for  
20 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal  
21 Regulations (36 C.F.R. s.67.7);

22 (c) work completed more than two years prior to the date of  
23 application; or

24 (d) work completed within two years of application and in  
25 accordance with the Secretary of the Interior's Standards for  
26 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal  
27 Regulations (36 C.F.R. 67.7).

28 (7) Any work completed before the start of construction or  
29 rehabilitation may be considered as part of the project, but shall not  
30 be a cost of rehabilitation or cost of facade rehabilitation.

31 b. A business entity may claim a credit under this section  
32 during the accounting or privilege period: (1) in which it makes the  
33 final payment for the cost of the rehabilitation if the business entity  
34 has chosen a selected rehabilitation period of 24 months; or (2) in  
35 which a distinct project phase of the rehabilitation is completed if  
36 the business entity has chosen a selected rehabilitation period of 60  
37 months. The credit may be claimed against any State tax, listed in  
38 paragraph (1) of subsection a. of this section, liability otherwise due  
39 after any other credits permitted pursuant to law have been applied.  
40 The amount of credit claimed in an accounting or privilege period  
41 that cannot be applied for that accounting or privilege period due to  
42 limitations in this section may be transferred pursuant to section 5  
43 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to  
44 the nine accounting or privilege periods following the accounting or  
45 privilege period for which the credit was allowed.

46 c. A business entity shall submit to the authority satisfactory  
47 evidence of the actual cost of rehabilitation, as certified by a  
48 certified public accountant, evidence of completion of the

1 rehabilitation or phase, and a certification that all information  
2 provided by the business entity to the authority is true, including  
3 information contained in the application, the rehabilitation  
4 agreement, any amendment to the rehabilitation agreement, and any  
5 other information submitted by the business entity to the authority  
6 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270  
7 through C.34:1B-276). The business entity, or an authorized agent  
8 of the business entity, shall certify under the penalty of perjury that  
9 the information provided pursuant to this subsection is true.  
10 (cf: P.L.2021, c.160, s.2)

11

12 3. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to  
13 read as follows:

14 6. a. The authority shall, in consultation with the officer and  
15 the director, promulgate rules and regulations in accordance with  
16 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
17 seq.), as the officer deems necessary to administer the provisions of  
18 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through  
19 C.34:1B-276), including but not limited to rules establishing  
20 administrative fees to implement the provisions of sections 2  
21 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),  
22 and setting of an annual application submission date, requiring  
23 annual reporting by each business entity that receives a tax credit  
24 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270  
25 through C.34:1B-276). As part of the authority's review of the  
26 annual reports required from each business entity that receives a tax  
27 credit, the authority shall confirm with the Department of Labor and  
28 Workforce Development, the Department of Environmental  
29 Protection, and the Department of the Treasury that: the business  
30 entity is in substantial good standing with the respective  
31 department, or has entered into an agreement with the respective  
32 department that includes a practical corrective action plan for the  
33 business entity, and the business entity shall certify that any  
34 contractors or subcontractors performing work at the qualified  
35 property or transformative project: (1) are registered as required by  
36 "The Public Works Contractor Registration Act," P.L.1999, c.238  
37 (C.34:11-56.48 et seq.); (2) have not been debarred by the  
38 Department of Labor and Workforce Development from engaging  
39 in or bidding on Public Works Contracts in the State; and (3)  
40 possess a tax clearance certificate issued by the Division of  
41 Taxation in the Department of the Treasury. The rules and  
42 regulations adopted pursuant to this section shall also include a  
43 provision to require that business entities forfeit all tax credits  
44 awarded in any year in which the Department of Labor and  
45 Workforce Development, the Department of Environmental  
46 Protection, or the Department of the Treasury advises the authority  
47 that the business entity is not in substantial good standing nor has  
48 the business entity entered into an agreement with the respective

1 department that includes a practical corrective action plan, and to  
2 allow the authority to extend, in individual cases, the deadline for  
3 any annual reporting or certification requirement established  
4 pursuant to this section.

5 b. For every tax credit allowed pursuant to section 4 of  
6 P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with  
7 the officer, shall certify to the director: the total cost of  
8 rehabilitation or total cost of facade rehabilitation project; that the  
9 property meets the definition of qualified property or transformative  
10 project, as applicable; and that the rehabilitation or facade  
11 rehabilitation project has been completed in substantial compliance  
12 with the requirements of the Secretary of the Interior's Standards for  
13 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal  
14 Regulations. The business entity shall attach the certification to the  
15 tax return on which the business entity claims the credit.

16 c. (1) The total amount of credits approved by the authority  
17 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270  
18 through C.34:1B-276) shall not exceed the limitations set forth in  
19 section 98 of P.L.2020, c.156 (C.34:1B-362). For the purpose of  
20 determining the aggregate value of tax credits approved in a fiscal  
21 year, a tax credit shall be deemed to have been approved at the time  
22 the authority approves an application for an award of a tax credit.  
23 If the authority approves less than the total amount of tax credits  
24 authorized pursuant to this subsection in a fiscal year, the remaining  
25 amount, plus any amounts remaining from previous fiscal years,  
26 shall be added to the limit of subsequent fiscal years until that  
27 amount of tax credits are claimed or allowed. Any unapproved,  
28 uncertified, or recaptured portion of tax credits during any fiscal  
29 year may be carried over and reallocated in succeeding years.

30 (2) Notwithstanding the provisions of paragraph (1) of this  
31 subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the  
32 contrary, the authority may approve tax credits, pursuant to sections  
33 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-  
34 276), for the rehabilitation of a transformative project in an amount  
35 that causes the total amount of credits approved during the fiscal  
36 year to exceed the limitations set forth in section 98 of P.L.2020,  
37 c.156 (C.34:1B-362), provided that the amount of the excess shall  
38 be subtracted from the total amount of credits that may be approved  
39 by the authority in the subsequent fiscal year, and the amount of the  
40 excess shall not exceed 50 percent of the total tax credits otherwise  
41 authorized for the fiscal year.

42 (3) The authority, in consultation with the officer, shall devise  
43 criteria for allocating tax credit amounts if the approved amounts  
44 combined exceed the total amount in each fiscal year, including  
45 rules that allocate over multiple fiscal years a single credit amount  
46 granted in excess of \$2,000,000. The criteria shall include a  
47 project's historic importance, positive impact on the surrounding  
48 neighborhood, economic sustainability, geographic diversity, and

1 consistency with Statewide growth and development policies and  
2 plans.

3 (4) At the authority's discretion, up to 50 percent of the tax  
4 credits available for distribution in any given year may be allocated  
5 to facade rehabilitation projects. The amount of credit allowed to a  
6 business entity pursuant to this paragraph shall be 50 percent of the  
7 cost of facade rehabilitation for a project or \$4 million, whichever  
8 is less. The tax credits allocated pursuant to this paragraph shall be  
9 awarded through a competitive application process whereby the  
10 authority shall evaluate all applications submitted by a date certain,  
11 as if all received applications were submitted on that date.  
12 Notwithstanding the provisions of section 4 of P.L.2020, c.156  
13 (C.34:1B-272), a project financing gap analysis shall not be  
14 required for the submission or approval of these applications.  
15 When scoring applications, the authority shall consider factors  
16 including, but not limited to: the retention of existing historic  
17 fabric versus demolition; building location, with preference given to  
18 buildings that contribute to the historic significance of a historic  
19 district; and the amount of community support for the project.

20 d. Notwithstanding any provision of the "Administrative  
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
22 contrary, the chief executive officer of the authority may adopt,  
23 immediately upon filing with the Office of Administrative Law,  
24 rules and regulations necessary to implement the provisions of  
25 P.L. , c. (pending before the Legislature as this bill). The rules  
26 and regulations adopted pursuant to this section shall be effective  
27 for a period not to exceed 365 days following the date of filing and  
28 may thereafter be amended, adopted, or readopted by the director in  
29 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
30 et seq.).

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

32

33 4. Section 7 of P.L.2020, c.156 (C.34:1B-275) is amended to  
34 read as follows:

35 7. a. The authority, in collaboration with the director, shall  
36 adopt rules for the recapture of an entire or partial tax credit amount  
37 allowed under sections 2 through 8 of P.L.2020, c.156 (C.34:1B-  
38 270 through C.34:1B-276). The rules shall require the authority to  
39 notify the director of the recapture of an entire or partial tax credit  
40 amount. Recaptured funds shall be deposited in the General Fund  
41 of the State.

42 b. If, before the end of five full years after the completion of  
43 the rehabilitation of the qualified property or transformative project,  
44 a developer that has received a tax credit pursuant to section 4 of  
45 P.L.2020, c.156 (C.34:1B-272) modifies the qualified property or  
46 transformative project so that it ceases to meet the requirements for  
47 the rehabilitation of a qualified property or transformative project as  
48 defined under the program or ceases to meet the requirement of the

1 rehabilitation agreement then the tax credit allowed under the  
2 program shall be recaptured in accordance with the rules adopted  
3 pursuant to subsection a. of this section.

4 c. In the case of a business entity that has chosen a selected  
5 rehabilitation period of 60 months, if the architectural plans change  
6 in the course of the phased rehabilitation project so that the  
7 rehabilitation of the qualified property or transformative project  
8 would, upon the rehabilitation's completion, no longer qualify for a  
9 tax credit pursuant to the requirements of sections 2 through 8 of  
10 P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), then the  
11 **business entity's tax liability for that accounting or privilege**  
12 **period shall be increased by the full amount of the tax credit that the**  
13 **authority had previously granted upon the completion of a distinct**  
14 **prior project phase that the business entity has applied against its**  
15 **tax liability in a prior accounting or privilege period** tax credits  
16 issued shall be subject to recapture. Any portion of the tax credit  
17 that the business entity has not yet used at the time of the  
18 disallowance by the officer shall be deemed void.  
19 (cf: P.L.2020, c.156, s.7)

20

21 5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to  
22 read as follows:

23 10. As used in sections 9 through 19 of P.L.2020, c.156  
24 (C.34:1B-277 through C.34:1B-287):

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

27 "Board" means the Board of the New Jersey Economic  
28 Development Authority, established pursuant to section 4 of  
29 P.L.1974, c.80 (C.34:1B-4).

30 "Brownfield site" means any **former or current commercial or**  
31 **industrial site** real property in this State that is currently vacant or  
32 underutilized and on which there has been, or there is suspected to  
33 have been, a discharge of a contaminant or on which there is  
34 contaminated building material.

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

45 "Contaminated building material" means components of a  
46 structure where abatement or removal of asbestos, or remediation of  
47 materials containing hazardous substances defined pursuant to

1 section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by  
2 applicable federal, state, or local rules or regulations.

3 "Contamination" or "contaminant" means any discharged  
4 hazardous substance as defined pursuant to section 3 of P.L.1976,  
5 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to  
6 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined  
7 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or  
8 contaminated building material.

9 "Department" means the Department of Environmental  
10 Protection.

11 "Developer" means any person that enters or proposes to enter  
12 into a redevelopment agreement with the authority pursuant to the  
13 provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

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

16 "Equity" means developer-contributed capital that may consist of  
17 cash, costs for project feasibility incurred within the 12 months  
18 prior to application, property value less any mortgages when the  
19 developer owns the project site, and any other investment by the  
20 developer in the project that the authority deems acceptable.  
21 Property value shall be an amount equal to the lesser of: (1) the  
22 purchase price, provided the property was purchased pursuant to an  
23 arm's length transaction within 12 months of application; or (2) the  
24 value as determined by a current appraisal acceptable to the  
25 authority. "Equity" includes federal or local grants and proceeds  
26 from the sale of federal or local tax credits, including, but not  
27 limited to, any federal tax credits that the redevelopment receives  
28 pursuant to section 42 of the federal Internal Revenue Code of 1986  
29 (26 U.S.C. s.42) and section 45D of the federal Internal Revenue  
30 Code of 1986 (26 U.S.C. s.45D). "Equity" shall not include State  
31 grants or tax credits or proceeds from redevelopment area bonds.  
32 For a residential project utilizing low income tax credits awarded by  
33 the New Jersey Housing and Mortgage Financing Agency pursuant  
34 to section 19 of P.L.2008, c.46 (C.52:27D-321.1), "equity" includes  
35 the portion of the developer's fee that is deferred for a minimum of  
36 five years.

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

1 land area of the municipality, which is dedicated as a national  
2 natural landmark.

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

28 "Licensed site remediation professional" means an individual  
29 who is licensed by the Site Remediation Professional Licensing  
30 Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the  
31 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

32 "Program" means the Brownfields Redevelopment Incentive  
33 Program established by section 11 of P.L.2020, c.156 (C.34:1B-  
34 279).

35 "Project financing gap" means the part of the total remediation  
36 cost, including reasonable and appropriate return on investment,  
37 that remains to be financed after all other sources of capital have  
38 been accounted for, including, but not limited to, developer  
39 contributed capital, which shall not be less than 20 percent of the  
40 total remediation cost, and investor or financial entity capital or  
41 loans for which the developer, after making all good faith efforts to  
42 raise additional capital, certifies that additional capital cannot be  
43 raised from other sources; provided, however, that for a  
44 redevelopment project located in a government-restricted  
45 municipality, the developer contributed capital shall not be less than  
46 10 percent of the cost of rehabilitation. When an applicant is  
47 proposing a new project, the project financing gap shall consider  
48 the cost of the full project, but the award size shall be based on

1 remediation costs. Developer contributed capital may consist of  
2 cash, deferred development fees, costs for project feasibility  
3 incurred within the 12 months prior to application, property value  
4 less any mortgages when the developer owns the project site, and  
5 any other investment by the developer in the project deemed  
6 acceptable by the authority, as provided by regulations promulgated  
7 by the authority. Property value shall be valued at the lesser of  
8 either: a. the purchase price, provided the property was purchased  
9 pursuant to an arm's length transaction within 12 months of  
10 application; or b. the value as determined by a current appraisal.

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

17 "Redevelopment agreement" means an agreement between the  
18 authority and a developer under which the developer agrees to  
19 perform any work or undertaking necessary for the remediation of a  
20 brownfield site located at the site of the redevelopment project[,  
21 and for the clearance, development or redevelopment, construction,  
22 reconstruction, or rehabilitation of any structure or improvement of  
23 commercial, industrial, or public structures or improvements within  
24 an area of land whereon a brownfield site is located].

25 "Redevelopment project" means a specific [construction]  
26 remediation project [or improvement] undertaken, pursuant to the  
27 terms of a redevelopment agreement, by a developer within an area  
28 of land whereon a brownfield site is located. [A redevelopment  
29 project may involve construction or improvement upon lands,  
30 buildings, improvements, or real and personal property, or any  
31 interest therein, including lands under water, riparian rights, space  
32 rights, and air rights, acquired, owned, developed or redeveloped,  
33 constructed, reconstructed, rehabilitated, or improved.]

34 "Remediation" or "remediate" means all necessary actions to  
35 investigate and clean up or respond to any known, suspected, or  
36 threatened discharge of contaminants, including, as necessary, the  
37 preliminary assessment, site investigation, remedial investigation,  
38 and remedial action, or any portion thereof, as those terms are  
39 defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and  
40 hazardous materials abatement; hazardous materials or waste  
41 disposal; building and structural remedial activities, including, but  
42 not limited to, demolition, asbestos abatement, polychlorinated  
43 biphenyl removal, improvement and capping of landfills,  
44 contaminated wood or paint removal, or other infrastructure  
45 remedial activities; provided, however, "remediation" or  
46 "remediate" shall not include the payment of compensation for  
47 damage to, or loss of, natural resources.

1 "Remediation costs" means all reasonable costs associated with  
2 the remediation of a contaminated site, except any costs incurred in  
3 financing the remediation.

4 (cf: P.L.2021, c.160, s.5)

5  
6 6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to  
7 read as follows:

8 12. a. A developer seeking a tax credit for a redevelopment  
9 project shall submit an application to the authority and the  
10 department in a form and manner prescribed in regulations adopted  
11 by the authority, in consultation with the department, pursuant to  
12 the provisions of the "Administrative Procedure Act," P.L.1968,  
13 c.410 (C.52:14B-1 et seq.).

14 b. A redevelopment project shall be eligible for a tax credit  
15 only if the developer demonstrates to the authority and the  
16 department at the time of application that:

17 (1) except as ordered by a government official with jurisdiction  
18 over the brownfield site or certified by a Licensed Site Remediation  
19 Professional to correct or prevent the spread of a health, safety, or  
20 other hazard, and as provided in subsection j. of this section, the  
21 developer has not commenced any remediation or clean up at the  
22 site of the redevelopment project, except for preliminary  
23 assessments and investigations, prior to applying for a tax credit  
24 pursuant to this section, but intends to remediate **[and redevelop]**  
25 the site immediately upon approval of the tax credit;

26 (2) the redevelopment project is located on a brownfield site;

27 (3) without the tax credit, the redevelopment project is not  
28 economically feasible;

29 (4) a project financing gap exists for projects located outside of  
30 a government-restricted municipality that have a total remediation  
31 cost of \$5,000,000 or greater;

32 (5) the developer **[has obtained and submitted]** shall obtain and  
33 submit to the authority, before approval by the board, a letter  
34 evidencing support for the redevelopment project from the  
35 governing body of the municipality in which the redevelopment  
36 project is located; and

37 (6) each worker employed to perform remediation, construction,  
38 or building services work at the redevelopment project shall be paid  
39 not less than the prevailing wage rate for the worker's craft or trade,  
40 as determined by the Commissioner of Labor and Workforce  
41 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).  
42 The prevailing wage requirements shall apply for remediation or  
43 construction work through the completion of the redevelopment  
44 project, and the prevailing wage requirements shall apply for  
45 building services work at the site of the redevelopment project for  
46 10 years following completion of the redevelopment project. In the  
47 event a redevelopment project, or the aggregate of all  
48 redevelopment projects approved for an award under the program,

1 constitute a lease of more than 35 percent of a facility, the  
2 prevailing wage requirements shall apply to the entire facility.

3 c. A redevelopment project that received a reimbursement  
4 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
5 through 58:10B-31) shall not be eligible to apply for a tax credit  
6 under the program. If the authority receives an application and  
7 supporting documentation for approval of a reimbursement pursuant  
8 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through  
9 58:10B-31) prior to the effective date of sections 9 through 19 of  
10 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the  
11 authority may consider the application and award a tax credit to a  
12 developer, provided that the authority shall take final action on all  
13 applications for approval of a reimbursement pursuant to sections  
14 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)  
15 no later than July 1, 2019. No applications shall be submitted  
16 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
17 through 58:10B-31) after the effective date of sections 9 through 19  
18 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

19 d. (1) Prior to approval of an application, the authority shall  
20 confirm with the Department of Labor and Workforce  
21 Development, the Department of Environmental Protection, and the  
22 Department of the Treasury whether the developer is in substantial  
23 good standing with the respective department, or has entered into an  
24 agreement with the respective department that includes a practical  
25 corrective action plan for the developer. The authority may also  
26 contract with an independent third party to perform a background  
27 check on the developer. The developer shall certify that any  
28 contractors or subcontractors that perform work at the  
29 redevelopment project: (a) are registered as required by "The Public  
30 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-  
31 56.48 et seq.); (b) have not been debarred by the Department of  
32 Labor and Workforce Development from engaging in or bidding on  
33 Public Works Contracts in New Jersey, and (c) possess a tax  
34 clearance certificate issued by the Division of Taxation in the  
35 Department of the Treasury. Provided that the developer is in  
36 substantial good standing with the Department of Labor and  
37 Workforce Development, the Department of Environmental  
38 Protection, and the Department of the Treasury, or has entered into  
39 such an agreement, and following approval of an application by the  
40 board, the authority shall enter into a redevelopment agreement  
41 with the developer, as provided for in section 13 of P.L.2020, c.156  
42 (C.34:1B-281).

43 (2) The authority, in consultation with the department, may  
44 impose additional requirements upon an applicant through rule or  
45 regulation adopted pursuant to the provisions of the "Administrative  
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the  
47 authority or the department determines the additional requirements  
48 to be necessary and appropriate to effectuate the purposes of

1 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through  
2 C.34:1B-287).

3 e. The authority, in consultation with the department, shall  
4 conduct a review of the applications on a rolling basis, unless the  
5 authority determines that demand is likely to exceed available tax  
6 credits, and then through a competitive application process whereby  
7 the authority and the department shall evaluate all applications  
8 submitted by a date certain, as if all received applications were  
9 submitted on that date. To receive a tax credit award, a developer's  
10 application shall meet a minimum score, as determined by the  
11 authority. In addition to the eligibility criteria set forth in  
12 subsection b. of this section, the authority, in consultation with the  
13 department, may consider additional factors that may include, but  
14 shall not be limited to: the economic feasibility of the  
15 redevelopment project; the benefit of the redevelopment project to  
16 the community in which the remediation project is located; the  
17 degree to which the redevelopment project enhances and promotes  
18 **[job creation and]** economic development and reduces  
19 environmental or public health stressors in an overburdened  
20 community, as those terms are defined by section 2 of P.L.2020,  
21 c.92 (C.13:1D-158), and attendant department regulations; and, if  
22 the developer has a board of directors, the extent to which that  
23 board of directors is diverse and representative of the community in  
24 which the redevelopment project is located. The authority, in  
25 consultation with the department, shall submit applications that  
26 comply with the eligibility criteria set forth in this section, fulfill  
27 the additional factors considered by the authority pursuant to this  
28 subsection, satisfy the submission requirements, and provide  
29 adequate information for the subject application, to the board for  
30 final approval.

31 f. The authority shall award tax credits to redevelopment  
32 projects until either the available tax credits are exhausted or all  
33 redevelopment projects that are eligible for a tax credit pursuant to  
34 the provisions of sections 9 through 19 of P.L.2020, c.156  
35 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever  
36 occurs first. If insufficient funding exists to allow a tax credit to a  
37 developer in accordance with the provisions of subsection a. of  
38 section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may  
39 offer the developer a value of the tax credit below the amount  
40 provided for in subsection a. of section 16 of P.L.2020, c.156  
41 (C.34:1B-284).

42 g. A developer shall pay to the authority or to the department,  
43 as appropriate, the full amount of the direct costs of an analysis  
44 concerning the developer's application for a tax credit, which a third  
45 party retained by the authority or department performs, if the  
46 authority or department deems such retention to be necessary.

1 h. If the authority determines that a developer made a material  
2 misrepresentation on the developer's application, the developer shall  
3 forfeit all tax credits awarded under the program.

4 i. If circumstances require a developer to amend its application  
5 to the authority, then the developer, or an authorized agent of the  
6 developer, shall certify to the authority that the information  
7 provided in its amended application is true, under the penalty of  
8 perjury.

9 j. A developer who has commenced remediation or clean up at  
10 the site and who could not reasonably have known the full extent of  
11 the site contamination prior to commencing the remediation may  
12 still apply for a tax credit under the program, if the developer  
13 certifies to the authority, under the penalty of perjury, that the  
14 developer cannot reasonably finish the remediation and commence  
15 the redevelopment project absent the tax credit.

16 (cf: P.L.2021, c.160, s.6)

17  
18 7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to  
19 read as follows:

20 13. a. Following approval of an application by the board, but  
21 prior to the start of any remediation or clean up at the site of the  
22 redevelopment project, except activities disclosed at the time of  
23 approval or those in accordance with section 12 of P.L.2020, c.156  
24 (C.34:1B-280), the authority shall enter into a redevelopment  
25 agreement with the developer. The chief executive officer of the  
26 authority shall negotiate the terms and conditions of the  
27 redevelopment agreement on behalf of the State.

28 b. The redevelopment agreement shall specify the amount of  
29 the tax credit to be awarded to the developer, the date on which the  
30 developer shall complete the remediation, and the projected project  
31 remediation cost. The redevelopment agreement shall require the  
32 developer to submit progress reports to the authority and to the  
33 department every six months pursuant to section 15 of P.L.2020,  
34 c.156 (C.34:1B-283).

35 c. The authority shall not enter into a redevelopment agreement  
36 with a developer unless:

37 (1) the redevelopment project complies with standards  
38 established by the authority in accordance with the green building  
39 manual prepared by the Commissioner of Community Affairs  
40 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 (2) the redevelopment project complies with the authority's  
45 affirmative action requirements, adopted pursuant to section 4 of  
46 P.L.1979, c.303 (C.34:1B-5.4); and

47 (3) the developer pays each worker employed to perform  
48 remediation work, construction work, or building services work at

1 the redevelopment project not less than the prevailing wage rate in  
2 accordance with the requirements of paragraph (6) of subsection b.  
3 of section 12 of P.L.2020, c.156 (C.34:1B-280) for the worker's  
4 craft or trade, as determined by the Commissioner of Labor and  
5 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-  
6 56.25 et seq.).

7 d. The authority shall not enter into a redevelopment agreement  
8 unless the developer demonstrates, to the satisfaction of the  
9 Department of Environmental Protection, that the developer did not  
10 discharge a hazardous substance at the brownfield site proposed to  
11 be in the redevelopment agreement, is not in any way responsible  
12 for the hazardous substance, and is not a corporate successor to the  
13 discharger or to any person in any way responsible for the  
14 hazardous substance or to anyone liable for cleanup and removal  
15 costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

16 e. (1) Except as provided in paragraph (2) of this subsection,  
17 the authority shall not enter into a redevelopment agreement for a  
18 redevelopment project that includes at least one retail establishment  
19 that will have more than 10 employees, or at least one distribution  
20 center that will have more than 20 employees, unless the  
21 redevelopment agreement includes a precondition that any business  
22 that serves as the owner or operator of the retail establishment or  
23 distribution center enters into a labor harmony agreement with a  
24 labor organization or cooperating labor organizations which  
25 represent retail or distribution center employees in the State.

26 (2) A labor harmony agreement shall be required only if the  
27 State has a proprietary interest in the redevelopment project and  
28 shall remain in effect for as long as the State acts as a market  
29 participant in the redevelopment project. The authority may enter  
30 into a redevelopment agreement with a developer without the labor  
31 harmony agreement required under paragraph (1) of this subsection  
32 only if the authority determines that the redevelopment project  
33 would not be feasible if a labor harmony agreement is required.  
34 The authority shall support the determination by a written finding,  
35 which provides the specific basis for the determination.

36 (3) [As used in this subsection, "labor harmony agreement"  
37 means an agreement between a business that serves as the owner or  
38 operator of a retail establishment or distribution center and one or  
39 more labor organizations, which requires, for the duration of the  
40 agreement: that any participating labor organization and its  
41 members agree to refrain from picketing, work stoppages, boycotts,  
42 or other economic interference against the business; and that the  
43 business agrees to maintain a neutral posture with respect to efforts  
44 of any participating labor organization to represent employees at an  
45 establishment or other unit in the retail establishment or distribution  
46 center, agrees to permit the labor organization to have access to the  
47 employees, and agrees to guarantee to the labor organization the  
48 right to obtain recognition as the exclusive collective bargaining

1 representatives of the employees in an establishment or unit at the  
2 retail establishment or distribution center by demonstrating to the  
3 New Jersey State Board of Mediation, Division of Private  
4 Employment Dispute Settlement, or a mutually agreed-upon,  
5 neutral, third-party, that a majority of workers in the unit have  
6 shown their preference for the labor organization to be their  
7 representative by signing authorization cards indicating that  
8 preference. The labor organization or organizations shall be from a  
9 list of labor organizations that have requested to be on the list and  
10 that the Commissioner of Labor and Workforce Development has  
11 determined represent substantial numbers of retail or distribution  
12 center employees in the State.】 (Deleted by amendment,  
13 P.L. , c. ) (pending before the Legislature as this bill)

14 f. The redevelopment agreement shall provide that issuance of  
15 a tax credit under the program shall be conditioned upon the  
16 subrogation to the department of all rights of the developer to  
17 recover remediation costs from any other person who discharges a  
18 hazardous substance or is in any way responsible, pursuant to  
19 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous  
20 substance that was discharged at the brownfield site.

21 g. A developer may seek a revision to the redevelopment  
22 agreement if the developer cannot complete the remediation on or  
23 before the date set forth in the redevelopment agreement. A  
24 developer's ability to change the date on which the developer shall  
25 complete the remediation shall be subject to the availability of tax  
26 credits in the year of the revised date of completion.

27 h. A developer shall submit to the authority satisfactory  
28 evidence of the actual remediation costs, as certified by a certified  
29 public accountant, and a Licensed Site Remediation Professional for  
30 costs under the jurisdiction of the "Site Remediation Reform Act,"  
31 sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as  
32 applicable, other appropriate licensed or certified professional for  
33 costs that are not under the jurisdiction of the "Site Remediation  
34 Reform Act," evidence of completion of the remediation as  
35 demonstrated by a Response Action Outcome where the  
36 remediation is subject to the "Site Remediation Reform Act," a  
37 certification from the appropriate licensed or certified professional  
38 for other remedial activities, and a certification that all information  
39 provided by the developer to the authority is true, including  
40 information contained in the application, the redevelopment  
41 agreement, any amendment to the redevelopment agreement, and  
42 any other information submitted by the developer to the authority  
43 pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277  
44 through C.34:1B-287). The developer, or an authorized agent of the  
45 developer, shall certify under the penalty of perjury that the  
46 information provided pursuant to this subsection is true.

47 i. The redevelopment agreement shall include a provision  
48 allowing the authority to recapture the tax credits for any year in

1 which the Department of Environmental Protection, the Department  
2 of Labor and Workforce Development, or the Department of the  
3 Treasury that advises the authority that the developer is not in  
4 substantial good standing with the respective department, nor has  
5 the developer entered into an agreement with the respective  
6 department that includes a practical corrective action plan for the  
7 developer. The redevelopment agreement shall also include a  
8 provision allowing the authority to recapture the tax credits for any  
9 year in which the developer fails to confirm that each contractor or  
10 subcontractor performing work at the redevelopment project: (1) is  
11 registered as required by "The Public Works Contractor  
12 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has  
13 not been debarred by the Department of Labor and Workforce  
14 Development from engaging in or bidding on Public Works  
15 Contracts in New Jersey; and (3) possesses a tax clearance  
16 certificate issued by the Division of Taxation in the Department of  
17 the Treasury. **【The redevelopment agreement shall also require a**  
18 **developer to engage in on-site consultations with the Division of**  
19 **Workplace Safety and Health in the Department of Health.】**  
20 (cf: P.L.2021, c.160, s.7)

21

22 8. Section 14 of P.L.2020, c.156 (C.34:1B-282) is amended to  
23 read as follows:

24 14. **【To】** In addition to the submission of any additional  
25 evidence that the authority may request to verify that activities  
26 comply with local, state, and federal regulations, to qualify for a tax  
27 credit under the program, a developer shall, as applicable:

28 a. enter into **【a memorandum of agreement】** an administrative  
29 consent order or other oversight document with the Commissioner  
30 of Environmental Protection in accordance with the provisions of  
31 section 37 of P.L.1997, c.278 (C.58:10B-29); **【or】**

32 b. comply with the requirements set forth in subsection b. of  
33 section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of  
34 the site of the redevelopment project; or

35 c. comply with the rules, regulations, and guidelines by the  
36 federal government, the New Jersey Department of Labor and  
37 Workforce Development, the New Jersey Department of Health,  
38 and the New Jersey Department of Community Affairs regarding  
39 requirements for remediation of asbestos, contaminated paint,  
40 polychlorinated biphenyls, and other environmental hazards.

41 (cf: P.L.2020, c.156, s.14)

42

43 9. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to  
44 read as follows:

45 16. a. Upon completion of the remediation, the developer shall  
46 seek certification from the authority, in consultation with the  
47 department, that:

1 (1) the remediation is complete;

2 (2) the developer complied with the requirements of section 14  
3 of P.L.2020, c.156 (C.34:1B-282), as applicable, and section 15 of  
4 P.L.2020, c.156 (C.34:1B-283)], including the requirements of any  
5 memorandum of agreement or other oversight document that the  
6 developer may have executed with the Commissioner of  
7 Environmental Protection pursuant to that section]; and

8 (3) the remediation costs were actually and reasonably incurred.

9 Upon receipt of certification, and confirmation by the authority  
10 that the developer's obligations under the redevelopment agreement  
11 have been met, a developer shall be awarded a credit against the tax  
12 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
13 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),  
14 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as  
15 follows: (a) for project located in a qualified incentive tract or  
16 government-restricted municipality, in an amount not to exceed  
17 **[60]** 80 percent of the actual remediation costs, or **[60]** 80 percent  
18 of the projected remediation costs as set forth in the redevelopment  
19 agreement, or **[\$8,000,000]** \$12,000,000, whichever is least; **[and]**  
20 (b) for a project erecting a solar panel array on the site of a closed  
21 sanitary landfill, in an amount not to exceed 100 percent of the  
22 costs of remediation and capping of the landfill, or \$12,000,000 if  
23 the project is located in a qualified incentive tract or government-  
24 restricted municipality, or \$8,000,000 if the project is located  
25 anywhere else in the State, whichever is least; and (c) for all other  
26 projects, in an amount not to exceed **[50]** 60 percent of the actual  
27 remediation costs, or **[50]** 60 percent of the projected remediation  
28 costs as set forth in the redevelopment agreement, or **[\$4,000,000]**  
29 \$8,000,000, whichever is least. The developer, or an authorized  
30 agent of the developer, shall certify that the information provided to  
31 the department and the authority pursuant to this subsection is true  
32 under the penalty of perjury.

33 b. When filing an application for certification pursuant to  
34 subsection a. of this section, the developer shall submit to the  
35 department and the authority: (1) the total remediation costs  
36 incurred by the developer for the remediation of the subject  
37 property located at the site of the redevelopment project, as  
38 provided in the redevelopment agreement, and certified by a  
39 certified public accountant, and a Licensed Site Remediation  
40 Professional for costs under the jurisdiction of the "Site  
41 Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60  
42 (C.58:10C-1 et seq.), and as applicable, other appropriate licensed  
43 or certified professional for costs that are not under the jurisdiction  
44 of the "Site Remediation Reform Act"; (2) evidence of completion  
45 of the remediation, as demonstrated by a Response Action Outcome  
46 where the remediation is subject to the "Site Remediation Reform  
47 Act"; (3) a certification from the appropriate licensed or certified

1 professional for other remedial activities; (4) as applicable,  
2 information concerning the occupancy rate of **the** any buildings  
3 or other work areas located on the property subject to the  
4 redevelopment agreement; and (5) such other information as the  
5 department deems necessary in order to make the certifications and  
6 findings pursuant to this section.

7 c. A developer shall apply the credit awarded against the  
8 developer's liability for the tax imposed pursuant to section 5 of  
9 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132  
10 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231  
11 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during  
12 which the **department** director awards the developer a tax credit  
13 pursuant to subsection a. of this section. A developer shall not  
14 carry forward any unused credit.

15 d. The director shall prescribe the order of priority of the  
16 application of the credit awarded under this section and any other  
17 credits allowed by law against the tax imposed under section 5 of  
18 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
19 under this section against the tax imposed pursuant to section 5 of  
20 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
21 any other credits allowed by law, shall not reduce the tax liability to  
22 an amount less than the statutory minimum provided in subsection  
23 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

24 (cf: P.L.2021, c.160, s.8)

25

26 10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to  
27 read as follows:

28 19. a. 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, in consultation  
31 with the Commissioner of Environmental Protection, may adopt,  
32 immediately upon filing with the Office of Administrative Law,  
33 regulations that the chief executive officer and commissioner deem  
34 necessary to implement the provisions of sections 9 through 19 of  
35 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which  
36 regulations shall be effective for a period not to exceed 360 days  
37 from the date of the filing. The chief executive officer, in  
38 consultation with the Commissioner of Environmental Protection,  
39 shall thereafter amend, adopt, or readopt the regulations in  
40 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
41 et seq.). The rules shall require annual reporting by developers that  
42 receive tax credits pursuant to the program, in addition to the  
43 regular progress updates. As part of the authority's review of the  
44 annual reports required from a developer, the authority shall  
45 confirm with the Department of Labor and Workforce  
46 Development, the Department of Environmental Protection, and the  
47 Department of the Treasury that the developer is in substantial good  
48 standing with the respective department, or has entered into an

1 agreement with the respective department that includes a practical  
2 corrective action plan, and the developer shall certify that any  
3 contractors or subcontractors performing work at the redevelopment  
4 project: a. are registered as required by "The Public Works  
5 Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et  
6 seq.); b. have not been debarred by the Department of Labor and  
7 Workforce Development from engaging in or bidding on Public  
8 Works Contracts in New Jersey; and c. possess a tax clearance  
9 certificate issued by the Division of Taxation in the Department of  
10 the Treasury. The rules and regulations adopted pursuant to this  
11 section shall also include a provision to require that, in any year in  
12 which the developer is not in substantial good standing with the  
13 Department of Labor and Workforce Development, the Department  
14 of Environmental Protection, or the Department of the Treasury, the  
15 developer may forfeit all tax credits awarded in that year, and to  
16 allow the authority to extend, in individual cases, the deadline for  
17 any annual reporting requirement established pursuant to this  
18 section.

19 b. Notwithstanding any provision of the "Administrative  
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
21 contrary, the chief executive officer of the authority may adopt,  
22 immediately upon filing with the Office of Administrative Law,  
23 rules and regulations necessary to implement the provisions of  
24 P.L. , c. (pending before the Legislature as this bill). The rules  
25 and regulations adopted pursuant to this section shall be effective  
26 for a period not to exceed 365 days following the date of filing and  
27 may thereafter be amended, adopted, or readopted by the director in  
28 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
29 et seq.).

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

31

32 11. This act shall take effect immediately, except that: sections  
33 2 and 3 shall apply retroactively to unapproved applications  
34 pending before December 1, 2023; sections 1 and 4 shall take effect  
35 upon adoption of the rules in accordance with section 3 and shall  
36 apply to applications received by the authority after such date; and  
37 sections 5 through 9 shall take effect upon adoption of the rules in  
38 accordance with section 10 and shall apply to applications received  
39 by the authority after such date.

40

41

42

#### STATEMENT

43

44 This bill revises various provisions of the "New Jersey Economic  
45 Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.)  
46 concerning the Historic Property Reinvestment Program and the  
47 Brownfields Redevelopment Incentive Program.

1 *The Historic Property Reinvestment Program*

2 The bill revises the amount of credits that may be awarded to  
3 eligible business entities under the program. Specifically, the bill  
4 increases the maximum size of tax credits awarded under the  
5 program and allows for certain facade rehabilitation projects to be  
6 eligible for a tax credit award.

7 Under the bill, the credits awarded for the rehabilitation of a  
8 qualified property located in a qualified incentive tract or  
9 government-restricted municipality are increased to 60 percent of  
10 the cost of rehabilitation or \$12 million, whichever is less. Under  
11 current law, these credit amounts are equal to 45 percent of the cost  
12 of rehabilitation or \$8 million, whichever is less. The credits  
13 awarded for the rehabilitation of any other qualified property, other  
14 than a transformative project, are also increased to 50 percent of the  
15 cost of rehabilitation or \$8 million, whichever is less. Under  
16 current law, these credit amounts are equal to 40 percent of the cost  
17 of rehabilitation or \$4 million, whichever is less. The bill also  
18 revises the tax credit eligibility requirement for a business to  
19 demonstrate a project financing gap to apply only to projects  
20 located outside of a government-restricted municipality that have a  
21 total rehabilitation cost or total façade rehabilitation cost of at least  
22 \$5 million.

23 The bill provides the Economic Development Authority (EDA)  
24 with the discretion to make up to 50 percent of the tax credits  
25 available for distribution in a given year to be made available for  
26 facade rehabilitation projects. The value of tax credits awarded to a  
27 facade rehabilitation project are 50 percent of the project's cost of  
28 façade rehabilitation, up to a maximum of \$4 million. The bill  
29 defines "facade rehabilitation projects" to mean a project consisting  
30 of the repair or reconstruction of exterior building features,  
31 including but not limited to structural components embedded within  
32 exterior walls, masonry units and mortar, exterior siding fabric,  
33 doors, windows, exterior lighting fixtures, and decorative  
34 components, such as metalwork, terracotta units and cast stone  
35 which constitute the facades of a qualified property or  
36 transformative property.

37

38 *The Brownfields Redevelopment Incentive Program*

39 The bill revises various provisions relating to the application  
40 process for a developer and, following authority approval of the  
41 application, the subsequent redevelopment agreement between a  
42 developer and the authority. The bill also provides that the EDA  
43 would accept applications on a rolling basis, unless the EDA  
44 determines that the demand for tax credits is likely to exceed the  
45 availability of credits, in which case applications would be  
46 reviewed on a competitive basis and submitted before a date certain.

47 Under the bill, the value of credits awarded for the remediation  
48 of a redevelopment project located in a qualified incentive tract or

1 government-restricted municipality is increased to up to 80 percent  
2 of the actual remediation costs, 80 percent of the projected  
3 remediation costs set forth in the redevelopment agreement, or \$12  
4 million, whichever is less. Under current law, these credit amounts  
5 are equal to 60 percent of the actual remediation costs, 60 percent  
6 of the projected remediation costs set forth in the redevelopment  
7 agreement, or \$8 million, whichever is less.

8 The bill specifies the amount of tax credits that may be awarded  
9 for a redevelopment project erecting a solar panel array on the site  
10 of a closed sanitary landfill. If the project is located in a qualified  
11 incentive tract or a government-restricted municipality, the value of  
12 the tax credit would be in an amount equal to 100 percent of the  
13 costs of remediation or \$12 million, whichever is less. If the  
14 project is located anywhere else in the State, the value of tax credit  
15 would be in an amount equal to 100 percent of the costs of  
16 remediation or \$8 million, whichever is less.

17 Under the bill, the value of credits awarded for the remediation  
18 of all other redevelopment projects is increased to up to 60 percent  
19 of the actual remediation costs, 60 percent of the projected  
20 remediation costs set forth in the redevelopment agreement, or \$8  
21 million, whichever is less. Under current law, these credit amounts  
22 are equal to 50 percent of the actual remediation costs, 50 percent  
23 of the projected remediation costs set forth in the redevelopment  
24 agreement, or \$4 million, whichever is less.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4619

# STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4619.

This bill revises various provisions of the “New Jersey Economic Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.) concerning the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program.

#### *The Historic Property Reinvestment Program*

The bill revises the amount of credits that may be awarded to eligible business entities under the program. Specifically, the bill increases the maximum size of tax credits awarded under the program and allows for certain facade rehabilitation projects to be eligible for a tax credit award.

Under the bill, the credits awarded for the rehabilitation of a qualified property located in a qualified incentive tract or government-restricted municipality are increased to 60 percent of the cost of rehabilitation or \$12 million, whichever is less. Under current law, these credit amounts are equal to 45 percent of the cost of rehabilitation or \$8 million, whichever is less. The credits awarded for the rehabilitation of any other qualified property, other than a transformative project, are also increased to 50 percent of the cost of rehabilitation or \$8 million, whichever is less. Under current law, these credit amounts are equal to 40 percent of the cost of rehabilitation or \$4 million, whichever is less. The bill also revises the tax credit eligibility requirement for a business to demonstrate a project financing gap to apply only to projects located outside of a government-restricted municipality that have a total rehabilitation cost or total facade rehabilitation cost of at least \$5 million.

The bill provides the Economic Development Authority (EDA) with the discretion to make up to 50 percent of the tax credits available for distribution in a given year to be made available for facade rehabilitation projects. The value of tax credits awarded to a facade rehabilitation project are 50 percent of the project’s cost of facade rehabilitation, up to a maximum of \$4 million. The bill defines “facade rehabilitation projects” to mean a project consisting of the repair or reconstruction of exterior building features, including but not limited to structural components embedded within exterior walls, masonry units and mortar, exterior siding fabric, doors, windows, exterior

lighting fixtures, and decorative components, such as metalwork, terracotta units and cast stone which constitute the facades of a qualified property or 36 transformative property.

*The Brownfields Redevelopment Incentive Program*

The bill revises various provisions relating to the application process for a developer and, following authority approval of the application, the subsequent redevelopment agreement between a developer and the authority. The bill also provides that the EDA would accept applications on a rolling basis, unless the EDA determines that the demand for tax credits is likely to exceed the availability of credits, in which case applications would be reviewed on a competitive basis and submitted before a date certain.

Under the bill, the value of credits awarded for the remediation of a redevelopment project located in a qualified incentive tract or government-restricted municipality is increased to up to 80 percent of the actual remediation costs, 80 percent of the projected remediation costs set forth in the redevelopment agreement, or \$12 million, whichever is less. Under current law, these credit amounts are equal to 60 percent of the actual remediation costs, 60 percent of the projected remediation costs set forth in the redevelopment agreement, or \$8 million, whichever is less.

The bill specifies the amount of tax credits that may be awarded for a redevelopment project erecting a solar panel array on the site of a closed sanitary landfill. If the project is located in a qualified incentive tract or a government-restricted municipality, the value of the tax credit would be in an amount equal to 100 percent of the costs of remediation or \$12 million, whichever is less. If the project is located anywhere else in the State, the value of tax credit would be in an amount equal to 100 percent of the costs of remediation or \$8 million, whichever is less.

Under the bill, the value of credits awarded for the remediation of all other redevelopment projects is increased to up to 60 percent of the actual remediation costs, 60 percent of the projected remediation costs set forth in the redevelopment agreement, or \$8 million, whichever is less. Under current law, these credit amounts are equal to 50 percent of the actual remediation costs, 50 percent of the projected remediation costs set forth in the redevelopment agreement, or \$4 million, whichever is less.

**FISCAL IMPACT:**

The Office of Legislative Services concludes that the bill will result will result in a net loss of State revenues over a multi-year period. This bill modifies various provisions of current law governing the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program.

The provisions of the bill increasing the maximum amount of tax credits that may be awarded to an individual project through either program will result in a State revenue loss to the extent that the developers of qualified properties and redevelopment projects qualify for larger tax credit awards permitted under current law.

By revising the tax credit eligibility requirement for a business to demonstrate a project financing gap so that it applies only to projects located outside of a government-restricted municipality that have total rehabilitation costs, total façade rehabilitation costs, or total remediation costs of at least \$5 million, the bill will result in a State revenue loss to the extent that these modifications allow developers to receive tax credits for which they may not be eligible under current law.

The provision of the bill allowing the Economic Development Authority to allocate to façade rehabilitation projects up to 50 percent of the tax credits available for distribution in any given year will result in a State revenue loss to the extent that it allows developers to receive tax credits for which they are not eligible under current law.

Current law provides the total amount of tax credits awarded annually through the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program at \$50 million each during the first six years of the nine-year period following enactment of the “New Jersey Economic Recovery Act of 2020.” Although the bill increases the maximum amount of tax credits that may be awarded to eligible projects and the types of projects that may qualify for tax credit awards, the bill does not alter the current statutory tax credit for each program.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4619**  
**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

DATED: JULY 3, 2024

**SUMMARY**

**Synopsis:** Modifies certain provisions of Historic Property Reinvestment and Brownfields Redevelopment Incentive programs.

**Type of Impact:** Multi-year net decrease in State revenues.

**Agencies Affected:** New Jersey Economic Development Authority.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Multi-Year Life Span of Tax Credit Awards</u></b>
<b>Net State Revenue Decrease</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result will result in a net loss of State revenues over a multi-year period. The bill increases the maximum tax credit awards under the Historic Property Reinvestment Program and the Brownfields Redevelopment Program and extends eligibility for tax credit awards under each program to new types of projects.
- The provisions of the bill increasing the maximum amount of tax credits that may be awarded to an individual project through either program will result in a State revenue loss to the extent that the developers of qualified properties and redevelopment projects qualify for larger tax credit awards than permitted under current law.
- By requiring a business to demonstrate that a project financing gap exists only for projects located outside of a government-restricted municipality with rehabilitation or remediation cost of \$5 million, the bill will result in a State revenue loss because certain projects may qualify for tax credits for which they are not eligible under current law.
- The provisions of the bill allowing the Economic Development Authority to award tax credits to facade rehabilitation projects or a for a redevelopment project erecting a solar panel array on the site of a closed sanitary landfill will result in a State revenue loss to the extent that it allows developers to receive tax credits for which they are not eligible under current law.

## **BILL DESCRIPTION**

The bill revises various provisions of the New Jersey Economic Recovery Act of 2020 concerning the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program. The Historic Property Reinvestment Program provides tax credits on a competitive basis to support the rehabilitation of identified historic properties. The Brownfields Redevelopment Incentive Program provides project-based tax credits to incentivize environmental remediation, abatement, and demolition activities that will allow for the redevelopment of brownfield sites for commercial, retail, or mixed use. Both of these programs are administered by the Economic Development Authority.

The bill increases the maximum tax credit award for projects eligible for tax credit awards under both programs, regardless of where the project is located. The bill also allows the authority to award tax credits to facade rehabilitation projects and for a redevelopment projects involving the erection of a solar panel array on the site of a closed sanitary landfill.

The bill amends the project financing gap requirements for both programs. Current law requires applicants to demonstrate that a project financing gap exists for all projects, without regard to where that project is located. The bill amends current law governing both programs to provide that a business must demonstrate a project financing gap only for projects located outside of a government-restricted municipality that have total rehabilitation costs, total facade rehabilitation costs, or total remediation costs of at least \$5 million.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that the bill will result will result in a net loss of State revenues over a multi-year period. The OLS notes that the any revenue loss will be: a) temporally limited because current law places restrictions on the time period during which the authority may award tax credits through each program and b) spread out over several years since unused tax credits awarded under the Historic Property Reinvestment Program may be carried forward for up to nine privilege periods following the privilege period in which the credit was first allowed. Current law does not allow for the carry forward of unused tax credits awarded under the Brownfields Redevelopment Incentive Program.

The provisions of the bill increasing the maximum amount of tax credits that may be awarded to an individual project through either program will result in a State revenue loss to the extent that the developers of qualified properties and redevelopment projects qualify for larger tax credit awards permitted under current law.

By revising the tax credit eligibility requirement for a business to demonstrate a project financing gap so that it applies only to projects located outside of a government-restricted municipality that have total rehabilitation costs, total façade rehabilitation costs, or total remediation costs of at least \$5 million, the bill will result in a State revenue loss to the extent that these modifications allow developers to receive tax credits for which they may not be eligible under current law.

The provision of the bill allowing the Economic Development Authority to award tax credits to facade rehabilitation projects or a for a redevelopment project erecting a solar panel array on the site of a closed sanitary landfill will result in a State revenue loss to the extent that it allows developers to receive tax credits for which they are not eligible under current law.

Current law provides the total amount of tax credits awarded annually through the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program at \$50 million each during the first six years of the nine-year period following enactment of the New Jersey Economic Recovery Act of 2020. Although the bill increases the maximum amount of tax credits that may be awarded to eligible projects and the types of projects that may qualify for tax credit awards, the bill does not alter the current statutory tax credit cap for each program.

*Section: Revenue, Finance, and Appropriations*  
*Analyst: Scott A. Brodsky*  
*Staff Fiscal & Budget Analyst*  
*Approved: Thomas Koenig*  
*Legislative Budget and Finance Officer*

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

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

**SENATE, No. 3479**

**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

INTRODUCED JUNE 20, 2024

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex and Hudson)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

**Senator Timberlake**

**SYNOPSIS**

Modifies certain provisions of Historic Property Reinvestment and Brownfields Redevelopment Incentive programs.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/28/2024)**

1 AN ACT concerning the “Historic Property Reinvestment Act” and  
2 “Brownfields Redevelopment Incentive Program Act” and  
3 amending P.L.2020, c.156.

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

7  
8 1. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to  
9 read as follows:

10 3. As used in sections 2 through 8 of P.L.2020, c.156  
11 (C.34:1B-270 through C.34:1B-276):

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

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

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

28 "Cost of rehabilitation" means the consideration given, valued in  
29 money, whether given in money or otherwise, for the materials and  
30 services which constitute the rehabilitation, and includes all costs  
31 associated with the structural components within a qualified  
32 property or transformative property and any soft costs associated  
33 with a rehabilitation project, except not including any costs  
34 associated with an increase in total building volume.

35 "Cost of facade rehabilitation" means the consideration given,  
36 valued in money, whether given in money or otherwise, for the  
37 materials and services which constitute the facade rehabilitation  
38 project, and including all costs associated with necessary work to  
39 address structural components embedded within exterior walls,  
40 repair, reconstruction, or replacement of masonry units and mortar,  
41 exterior siding fabric, doors, windows, exterior lighting fixtures,  
42 and decorative components, such as metalwork, terracotta units, and  
43 cast stone, except not including any costs associated with  
44 demolition or interior construction.

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

3 "Exterior building features" include, but shall not be limited to,  
4 structural components embedded within exterior walls, masonry  
5 units and mortar, exterior siding fabric, doors, windows, exterior  
6 lighting fixtures, and decorative components, such as metalwork,  
7 terracotta units, and cast stone.

8 "Facade rehabilitation project" means a project consisting of the  
9 repair or reconstruction of exterior building features which  
10 constitute the facades of a qualified property or transformative  
11 property while preserving the portions or features of the property  
12 that have significant historical, architectural, and cultural values.

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

27 "Income producing property" means a structure or site that is  
28 used in a trade or business or to produce rental income.

29 "New Jersey S corporation" means the same as the term is  
30 defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

31 "Officer" means the State Historic Preservation Officer or the  
32 official within the State designated by the Governor or by statute in  
33 accordance with the provisions of chapter 3023 of Title 54, United  
34 States Code (54 U.S.C. s.302301 et seq.), to act as liaison for the  
35 purpose of administering historic preservation programs in the  
36 State.

37 "Partnership" means an entity classified as a partnership for  
38 federal income tax purposes.

39 "Project financing gap" means the part of the total cost of  
40 rehabilitation, including reasonable and appropriate return on  
41 investment, that remains to be financed after all other sources of  
42 capital have been accounted for, including, but not limited to,  
43 developer contributed capital, which shall not be less than 20  
44 percent of the total cost of rehabilitation, and investor or financial  
45 entity capital or loans for which the developer, after making all  
46 good faith efforts to raise additional capital, certifies that additional  
47 capital cannot be raised from other sources; provided, however, that  
48 for a redevelopment project located in a government-restricted

1 municipality, the developer contributed capital shall not be less than  
2 10 percent of the cost of rehabilitation. Developer contributed  
3 capital may consist of cash, deferred development fees, costs for  
4 project feasibility incurred within the 12 months prior to  
5 application, property value less any mortgages when the developer  
6 owns the project site, and any other investment by the developer in  
7 the project deemed acceptable by the authority, as provided by  
8 regulations promulgated by the authority. Property value shall be  
9 valued at the lesser of either: a. the purchase price, provided the  
10 property was purchased pursuant to an arm's length transaction  
11 within 12 months of application; or b. the value as determined by a  
12 current appraisal.

13 **["Property" means a structure, including its site improvements**  
14 **and landscape features, assessed as real property, and used for: a**  
15 **commercial purpose; a residential rental purpose, provided the**  
16 **structure contains at least four dwelling units; or any combination**  
17 **thereof.]**

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

24 "Qualified property" means a property, including structures, site  
25 improvements, and landscape features, assessed as real property,  
26 that is used for a commercial purpose, a residential rental purpose,  
27 provided the structure contains at least four dwelling units, or any  
28 combination thereof; that is located in the State of New Jersey; that  
29 is [an] income producing [property,] ; and that is:

30 a. (1) individually listed, or located in a district listed on the  
31 National Register of Historic Places in accordance with the  
32 provisions of chapter 3021 of Title 54, United States Code (54  
33 U.S.C. s.302101 et seq.), or on the New Jersey Register of Historic  
34 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or  
35 individually designated, or located in a district designated, by the  
36 Pinelands Commission as a historic resource of significance to the  
37 Pinelands in accordance with the Pinelands comprehensive  
38 management plan adopted pursuant to the "Pinelands Protection  
39 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

40 (2) if located within a district, certified by either the officer or  
41 the Pinelands Commission, as appropriate, as contributing to the  
42 historic significance of the district; **[or]**

43 b. (1) individually identified or registered, or located in a  
44 district composed of properties identified or registered, for  
45 protection as significant historic resources in accordance with  
46 criteria established by a municipality in which the property or  
47 district is located if the criteria for identification or registration has  
48 been approved by the officer as suitable for substantially achieving

1 the purpose of preserving and rehabilitating buildings of historic  
2 significance within the jurisdiction of the municipality, and

3 (2) if located within a district, certified by the officer as  
4 contributing to the historic significance of the district; or

5 c. (1) preliminarily determined by the National Park Service to  
6 be of historic significance in accordance with the requirements of  
7 36 C.F.R. s.67.3 and 36 C.F.R. s.67.4; and

8 (2) within one year of the issuance of the tax credits, listed on  
9 the New Jersey Register of Historic Places in accordance with the  
10 “New Jersey Register of Historic Places Act,” P.L.1970, c.268  
11 (C.13:1B-15.128 et seq.) and the New Jersey Register of Historic  
12 Places rules, N.J.A.C.7:4-1 et seq., as adopted by the Department of  
13 Environmental Protection and administered through the Historic  
14 Preservation Office. Failure to be listed on the New Jersey Register  
15 of Historic Places within one year of issuance of the tax credit shall  
16 result in the recapture of the tax credit.

17 "Rehabilitation" means the repair or reconstruction of the  
18 exterior or interior, including, but not limited to, structural or  
19 substrate components and electrical, plumbing, and heating  
20 components, of a qualified property or transformative project to  
21 make an efficient contemporary use possible while preserving the  
22 portions or features of the property that have significant historical,  
23 architectural, and cultural values.

24 **["Rehabilitation of the interior of the qualified property or**  
25 **transformative project" means the repair or reconstruction of the**  
26 **structural or substrate components and electrical, plumbing, and**  
27 **heating components within the interior of a qualified property or**  
28 **transformative project.]**

29 "Selected rehabilitation period" means a period of **[24]** 36  
30 months if the beginning of such period is chosen by the business  
31 entity during which, or parts of which, a rehabilitation is occurring,  
32 or a period of 60 months if a rehabilitation is reasonably expected to  
33 be completed in distinct phases set forth in written architectural  
34 plans and specifications completed before or during the physical  
35 work on the rehabilitation.

36 "Structural components" means the same as that term is defined  
37 in 26 C.F.R. s.1.48-1.

38 "Total cost of rehabilitation" means any costs incurred for, and in  
39 connection with, the rehabilitation project by the business entity and  
40 any affiliate of the business entity until the issuance of a permanent  
41 certificate of occupancy, or upon such other event evidencing  
42 project completion as set forth in the rehabilitation agreement, and  
43 includes, but is not limited to, project costs, soft costs, and cost of  
44 acquisition of land and buildings.

45 "Total cost of facade rehabilitation project" means any costs  
46 incurred for, and in connection with, the facade rehabilitation  
47 project by the business entity and any affiliate of the business entity  
48 until the issuance of a permanent certificate of occupancy, or upon

1 such other event evidencing project completion as set forth in the  
2 rehabilitation agreement, and includes, but is not limited to, project  
3 costs, soft costs, and cost of acquisition of land and buildings.

4 "Transformative project" means a property that is:

5 a. an income producing property, not including a residential  
6 property, whose rehabilitation the authority determines will  
7 generate substantial increases in State revenues through the creation  
8 of increased business activity within the surrounding area;

9 b. individually listed on the New Jersey Register of Historic  
10 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and  
11 which, before the enactment of P.L.2020, c.156 (C.34:1B-269 et  
12 al.), received a Determination of Eligibility from the Keeper of the  
13 National Register of Historic Places in accordance with the  
14 provisions of Part 60 of Title 36 of the Code of Federal  
15 Regulations; and

16 c. (1) located within a one-half mile radius of the center point  
17 of a transit village, as designated by the New Jersey Department of  
18 Transportation, and located within a city of the first class, as  
19 classified under N.J.S.40A:6-4; or (2) located within a government-  
20 restricted municipality.

21 (cf: P.L.2021, c.160, s.1)

22

23 2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to  
24 read as follows:

25 4. a. (1) A business entity, upon successful application to the  
26 New Jersey Economic Development Authority, and commitment to  
27 the authority to pay each worker employed to perform construction  
28 work and building services work at the qualified property or  
29 transformative project a wage not less than the prevailing wage rate  
30 for the worker's craft or trade, as determined by the Commissioner  
31 of Labor and Workforce Development pursuant to P.L.1963, c.150  
32 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax  
33 otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-  
34 5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-  
35 3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5,  
36 for a portion of the cost of rehabilitation paid by the business entity  
37 for the rehabilitation of a qualified property or transformative  
38 project, if the cost of rehabilitation during a business entity's  
39 selected rehabilitation period is not less than the greater of (a) the  
40 adjusted basis of the structure of the qualified property or  
41 transformative project used for federal income tax purposes as of  
42 the beginning of the business entity's selected rehabilitation period,  
43 or (b) \$5,000. The amount of the credit claimed in any accounting  
44 or privilege period shall not reduce the amount of the tax liability to  
45 less than the statutory minimum provided in subsection (e) of  
46 section 5 of P.L.1945, c.162 (C.54:10A-5).

47 (2) The amount of credit allowed to a business entity pursuant to  
48 this section shall be as follows:

- 1 (a) for the rehabilitation of a qualified property located in a  
2 qualified incentive tract or government-restricted municipality,  
3 ~~45~~ 60 percent of the cost of rehabilitation paid by the business  
4 entity for the rehabilitation of the qualified property or ~~8~~ 12  
5 million, whichever is less;
- 6 (b) for the rehabilitation of a transformative project, 45 percent  
7 of the cost of rehabilitation paid by the business entity for the  
8 rehabilitation of the transformative project or \$50 million,  
9 whichever is less; and
- 10 (c) for the rehabilitation of any other qualified property not  
11 subject to provisions of subparagraph (a) or (b) of this paragraph,  
12 ~~40~~ 50 percent of the cost of rehabilitation paid by the business  
13 entity for the rehabilitation of the qualified property or ~~4~~ 8  
14 million, whichever is less.
- 15 (3) The prevailing wage requirement for construction work shall  
16 apply at a qualified property or transformative project during the  
17 selected rehabilitation period, and the prevailing wage requirement  
18 for building services work shall apply at a qualified property or  
19 transformative project for 10 years following completion of the  
20 rehabilitation work at the qualified property or transformative  
21 project. In the event a qualified property or transformative project,  
22 or the aggregate of all qualified properties and transformative  
23 projects approved for awards under the program, constitute a lease  
24 of more than 35 percent of a facility, the prevailing wage  
25 requirements shall apply to the entire facility.
- 26 (4) Prior to approval of an application by the authority, the  
27 authority shall confirm with the Department of Labor and  
28 Workforce Development, the Department of Environmental  
29 Protection, and the Department of the Treasury whether the  
30 business entity is in substantial good standing with the respective  
31 department or has entered into an agreement with the respective  
32 department that includes a practical corrective action plan for the  
33 business entity. The business entity shall certify that any  
34 contractors or subcontractors that perform work at the qualified  
35 property or transformative project: (a) are registered as required by  
36 "The Public Works Contractor Registration Act," P.L.1999, c.238  
37 (C.34:11-56.48 et seq.); (b) have not been debarred by Department  
38 of Labor and Workforce Development from engaging in or bidding  
39 on Public Works Contracts in New Jersey; and (c) possess a tax  
40 clearance certificate issued by the Division of Taxation in the  
41 Department of the Treasury. The authority may also contract with  
42 an independent third party to perform a background check on the  
43 business entity. Following approval of an application by the  
44 authority, but prior to the start of any construction or rehabilitation  
45 at the qualified property or transformative project, the authority  
46 shall enter into a rehabilitation agreement with the business entity.  
47 The authority shall negotiate the terms and conditions of the  
48 rehabilitation agreement on behalf of the State.

1 (5) A rehabilitation project shall be eligible for a tax credit only  
2 if the business entity demonstrates to the authority at the time of  
3 application that:

4 (a) without the tax credit, the rehabilitation project is not  
5 economically feasible; and

6 (b) a project financing gap exists for a rehabilitation project that  
7 has a total rehabilitation cost or total facade rehabilitation cost  
8 equal to or greater than \$5 million and is located outside of a  
9 government-restricted municipality.

10 (6) For the purposes of paragraph (4) of this subsection, the start  
11 of any construction or rehabilitation shall not be deemed to include:

12 (a) work approved by the New Jersey Historic Trust or the New  
13 Jersey State Historic Preservation Office as meeting the Secretary  
14 of the Interior's Standards for Rehabilitation pursuant to section  
15 67.7 of Title 36, Code of Federal Regulations (36 C.F.R. s.67.7);

16 (b) work ordered by a building code or other official with  
17 jurisdiction over the site of the qualified property or transformative  
18 project to correct a health, safety, or other hazard and completed in  
19 accordance with the Secretary of the Interior's Standards for  
20 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal  
21 Regulations (36 C.F.R. s.67.7);

22 (c) work completed more than two years prior to the date of  
23 application; or

24 (d) work completed within two years of application and in  
25 accordance with the Secretary of the Interior's Standards for  
26 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal  
27 Regulations (36 C.F.R. 67.7).

28 (7) Any work completed before the start of construction or  
29 rehabilitation may be considered as part of the project, but shall not  
30 be a cost of rehabilitation or cost of facade rehabilitation.

31 b. A business entity may claim a credit under this section  
32 during the accounting or privilege period: (1) in which it makes the  
33 final payment for the cost of the rehabilitation if the business entity  
34 has chosen a selected rehabilitation period of 24 months; or (2) in  
35 which a distinct project phase of the rehabilitation is completed if  
36 the business entity has chosen a selected rehabilitation period of 60  
37 months. The credit may be claimed against any State tax, listed in  
38 paragraph (1) of subsection a. of this section, liability otherwise due  
39 after any other credits permitted pursuant to law have been applied.  
40 The amount of credit claimed in an accounting or privilege period  
41 that cannot be applied for that accounting or privilege period due to  
42 limitations in this section may be transferred pursuant to section 5  
43 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to  
44 the nine accounting or privilege periods following the accounting or  
45 privilege period for which the credit was allowed.

46 c. A business entity shall submit to the authority satisfactory  
47 evidence of the actual cost of rehabilitation, as certified by a  
48 certified public accountant, evidence of completion of the

1 rehabilitation or phase, and a certification that all information  
2 provided by the business entity to the authority is true, including  
3 information contained in the application, the rehabilitation  
4 agreement, any amendment to the rehabilitation agreement, and any  
5 other information submitted by the business entity to the authority  
6 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270  
7 through C.34:1B-276). The business entity, or an authorized agent  
8 of the business entity, shall certify under the penalty of perjury that  
9 the information provided pursuant to this subsection is true.  
10 (cf: P.L.2021, c.160, s.2)

11

12 3. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to  
13 read as follows:

14 6. a. The authority shall, in consultation with the officer and  
15 the director, promulgate rules and regulations in accordance with  
16 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
17 seq.), as the officer deems necessary to administer the provisions of  
18 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through  
19 C.34:1B-276), including but not limited to rules establishing  
20 administrative fees to implement the provisions of sections 2  
21 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),  
22 and setting of an annual application submission date, requiring  
23 annual reporting by each business entity that receives a tax credit  
24 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270  
25 through C.34:1B-276). As part of the authority's review of the  
26 annual reports required from each business entity that receives a tax  
27 credit, the authority shall confirm with the Department of Labor and  
28 Workforce Development, the Department of Environmental  
29 Protection, and the Department of the Treasury that: the business  
30 entity is in substantial good standing with the respective  
31 department, or has entered into an agreement with the respective  
32 department that includes a practical corrective action plan for the  
33 business entity, and the business entity shall certify that any  
34 contractors or subcontractors performing work at the qualified  
35 property or transformative project: (1) are registered as required by  
36 "The Public Works Contractor Registration Act," P.L.1999, c.238  
37 (C.34:11-56.48 et seq.); (2) have not been debarred by the  
38 Department of Labor and Workforce Development from engaging  
39 in or bidding on Public Works Contracts in the State; and (3)  
40 possess a tax clearance certificate issued by the Division of  
41 Taxation in the Department of the Treasury. The rules and  
42 regulations adopted pursuant to this section shall also include a  
43 provision to require that business entities forfeit all tax credits  
44 awarded in any year in which the Department of Labor and  
45 Workforce Development, the Department of Environmental  
46 Protection, or the Department of the Treasury advises the authority  
47 that the business entity is not in substantial good standing nor has  
48 the business entity entered into an agreement with the respective

1 department that includes a practical corrective action plan, and to  
2 allow the authority to extend, in individual cases, the deadline for  
3 any annual reporting or certification requirement established  
4 pursuant to this section.

5 b. For every tax credit allowed pursuant to section 4 of  
6 P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with  
7 the officer, shall certify to the director: the total cost of  
8 rehabilitation or total cost of facade rehabilitation project; that the  
9 property meets the definition of qualified property or transformative  
10 project, as applicable; and that the rehabilitation or facade  
11 rehabilitation project has been completed in substantial compliance  
12 with the requirements of the Secretary of the Interior's Standards for  
13 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal  
14 Regulations. The business entity shall attach the certification to the  
15 tax return on which the business entity claims the credit.

16 c. (1) The total amount of credits approved by the authority  
17 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270  
18 through C.34:1B-276) shall not exceed the limitations set forth in  
19 section 98 of P.L.2020, c.156 (C.34:1B-362). For the purpose of  
20 determining the aggregate value of tax credits approved in a fiscal  
21 year, a tax credit shall be deemed to have been approved at the time  
22 the authority approves an application for an award of a tax credit.  
23 If the authority approves less than the total amount of tax credits  
24 authorized pursuant to this subsection in a fiscal year, the remaining  
25 amount, plus any amounts remaining from previous fiscal years,  
26 shall be added to the limit of subsequent fiscal years until that  
27 amount of tax credits are claimed or allowed. Any unapproved,  
28 uncertified, or recaptured portion of tax credits during any fiscal  
29 year may be carried over and reallocated in succeeding years.

30 (2) Notwithstanding the provisions of paragraph (1) of this  
31 subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the  
32 contrary, the authority may approve tax credits, pursuant to sections  
33 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-  
34 276), for the rehabilitation of a transformative project in an amount  
35 that causes the total amount of credits approved during the fiscal  
36 year to exceed the limitations set forth in section 98 of P.L.2020,  
37 c.156 (C.34:1B-362), provided that the amount of the excess shall  
38 be subtracted from the total amount of credits that may be approved  
39 by the authority in the subsequent fiscal year, and the amount of the  
40 excess shall not exceed 50 percent of the total tax credits otherwise  
41 authorized for the fiscal year.

42 (3) The authority, in consultation with the officer, shall devise  
43 criteria for allocating tax credit amounts if the approved amounts  
44 combined exceed the total amount in each fiscal year, including  
45 rules that allocate over multiple fiscal years a single credit amount  
46 granted in excess of \$2,000,000. The criteria shall include a  
47 project's historic importance, positive impact on the surrounding  
48 neighborhood, economic sustainability, geographic diversity, and

1 consistency with Statewide growth and development policies and  
2 plans.

3 (4) At the authority's discretion, up to 50 percent of the tax  
4 credits available for distribution in any given year may be allocated  
5 to facade rehabilitation projects. The amount of credit allowed to a  
6 business entity pursuant to this paragraph shall be 50 percent of the  
7 cost of facade rehabilitation for a project or \$4 million, whichever  
8 is less. The tax credits allocated pursuant to this paragraph shall be  
9 awarded through a competitive application process whereby the  
10 authority shall evaluate all applications submitted by a date certain,  
11 as if all received applications were submitted on that date.  
12 Notwithstanding the provisions of section 4 of P.L.2020, c.156  
13 (C.34:1B-272), a project financing gap analysis shall not be  
14 required for the submission or approval of these applications.  
15 When scoring applications, the authority shall consider factors  
16 including, but not limited to: the retention of existing historic  
17 fabric versus demolition; building location, with preference given to  
18 buildings that contribute to the historic significance of a historic  
19 district; and the amount of community support for the project.

20 d. Notwithstanding any provision of the "Administrative  
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
22 contrary, the chief executive officer of the authority may adopt,  
23 immediately upon filing with the Office of Administrative Law,  
24 rules and regulations necessary to implement the provisions of  
25 P.L. , c. (pending before the Legislature as this bill). The rules  
26 and regulations adopted pursuant to this section shall be effective  
27 for a period not to exceed 365 days following the date of filing and  
28 may thereafter be amended, adopted, or readopted by the director in  
29 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
30 et seq.).

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

32

33 4. Section 7 of P.L.2020, c.156 (C.34:1B-275) is amended to  
34 read as follows:

35 7. a. The authority, in collaboration with the director, shall  
36 adopt rules for the recapture of an entire or partial tax credit amount  
37 allowed under sections 2 through 8 of P.L.2020, c.156 (C.34:1B-  
38 270 through C.34:1B-276). The rules shall require the authority to  
39 notify the director of the recapture of an entire or partial tax credit  
40 amount. Recaptured funds shall be deposited in the General Fund  
41 of the State.

42 b. If, before the end of five full years after the completion of  
43 the rehabilitation of the qualified property or transformative project,  
44 a developer that has received a tax credit pursuant to section 4 of  
45 P.L.2020, c.156 (C.34:1B-272) modifies the qualified property or  
46 transformative project so that it ceases to meet the requirements for  
47 the rehabilitation of a qualified property or transformative project as  
48 defined under the program or ceases to meet the requirement of the

1 rehabilitation agreement then the tax credit allowed under the  
2 program shall be recaptured in accordance with the rules adopted  
3 pursuant to subsection a. of this section.

4 c. In the case of a business entity that has chosen a selected  
5 rehabilitation period of 60 months, if the architectural plans change  
6 in the course of the phased rehabilitation project so that the  
7 rehabilitation of the qualified property or transformative project  
8 would, upon the rehabilitation's completion, no longer qualify for a  
9 tax credit pursuant to the requirements of sections 2 through 8 of  
10 P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), then the  
11 **【business entity's tax liability for that accounting or privilege**  
12 **period shall be increased by the full amount of the tax credit that the**  
13 **authority had previously granted upon the completion of a distinct**  
14 **prior project phase that the business entity has applied against its**  
15 **tax liability in a prior accounting or privilege period】 tax credits**  
16 **issued shall be subject to recapture.** Any portion of the tax credit  
17 that the business entity has not yet used at the time of the  
18 disallowance by the officer shall be deemed void.  
19 (cf: P.L.2020, c.156, s.7)

20

21 5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to  
22 read as follows:

23 10. As used in sections 9 through 19 of P.L.2020, c.156  
24 (C.34:1B-277 through C.34:1B-287):

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

27 "Board" means the Board of the New Jersey Economic  
28 Development Authority, established pursuant to section 4 of  
29 P.L.1974, c.80 (C.34:1B-4).

30 "Brownfield site" means any **【former or current commercial or**  
31 **industrial site】 real property in this State** that is currently vacant or  
32 underutilized and on which there has been, or there is suspected to  
33 have been, a discharge of a contaminant or on which there is  
34 contaminated building material.

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

45 "Contaminated building material" means components of a  
46 structure where abatement or removal of asbestos, or remediation of  
47 materials containing hazardous substances defined pursuant to

1 section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by  
2 applicable federal, state, or local rules or regulations.

3 "Contamination" or "contaminant" means any discharged  
4 hazardous substance as defined pursuant to section 3 of P.L.1976,  
5 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to  
6 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined  
7 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or  
8 contaminated building material.

9 "Department" means the Department of Environmental  
10 Protection.

11 "Developer" means any person that enters or proposes to enter  
12 into a redevelopment agreement with the authority pursuant to the  
13 provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

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

16 "Equity" means developer-contributed capital that may consist of  
17 cash, costs for project feasibility incurred within the 12 months  
18 prior to application, property value less any mortgages when the  
19 developer owns the project site, and any other investment by the  
20 developer in the project that the authority deems acceptable.  
21 Property value shall be an amount equal to the lesser of: (1) the  
22 purchase price, provided the property was purchased pursuant to an  
23 arm's length transaction within 12 months of application; or (2) the  
24 value as determined by a current appraisal acceptable to the  
25 authority. "Equity" includes federal or local grants and proceeds  
26 from the sale of federal or local tax credits, including, but not  
27 limited to, any federal tax credits that the redevelopment receives  
28 pursuant to section 42 of the federal Internal Revenue Code of 1986  
29 (26 U.S.C. s.42) and section 45D of the federal Internal Revenue  
30 Code of 1986 (26 U.S.C. s.45D). "Equity" shall not include State  
31 grants or tax credits or proceeds from redevelopment area bonds.  
32 For a residential project utilizing low income tax credits awarded by  
33 the New Jersey Housing and Mortgage Financing Agency pursuant  
34 to section 19 of P.L.2008, c.46 (C.52:27D-321.1), "equity" includes  
35 the portion of the developer's fee that is deferred for a minimum of  
36 five years.

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

1 land area of the municipality, which is dedicated as a national  
2 natural landmark.

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

28 "Licensed site remediation professional" means an individual  
29 who is licensed by the Site Remediation Professional Licensing  
30 Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the  
31 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

32 "Program" means the Brownfields Redevelopment Incentive  
33 Program established by section 11 of P.L.2020, c.156 (C.34:1B-  
34 279).

35 "Project financing gap" means the part of the total remediation  
36 cost, including reasonable and appropriate return on investment,  
37 that remains to be financed after all other sources of capital have  
38 been accounted for, including, but not limited to, developer  
39 contributed capital, which shall not be less than 20 percent of the  
40 total remediation cost, and investor or financial entity capital or  
41 loans for which the developer, after making all good faith efforts to  
42 raise additional capital, certifies that additional capital cannot be  
43 raised from other sources; provided, however, that for a  
44 redevelopment project located in a government-restricted  
45 municipality, the developer contributed capital shall not be less than  
46 10 percent of the cost of rehabilitation. When an applicant is  
47 proposing a new project, the project financing gap shall consider  
48 the cost of the full project, but the award size shall be based on

1 remediation costs. Developer contributed capital may consist of  
2 cash, deferred development fees, costs for project feasibility  
3 incurred within the 12 months prior to application, property value  
4 less any mortgages when the developer owns the project site, and  
5 any other investment by the developer in the project deemed  
6 acceptable by the authority, as provided by regulations promulgated  
7 by the authority. Property value shall be valued at the lesser of  
8 either: a. the purchase price, provided the property was purchased  
9 pursuant to an arm's length transaction within 12 months of  
10 application; or b. the value as determined by a current appraisal.

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

17 "Redevelopment agreement" means an agreement between the  
18 authority and a developer under which the developer agrees to  
19 perform any work or undertaking necessary for the remediation of a  
20 brownfield site located at the site of the redevelopment project[,  
21 and for the clearance, development or redevelopment, construction,  
22 reconstruction, or rehabilitation of any structure or improvement of  
23 commercial, industrial, or public structures or improvements within  
24 an area of land whereon a brownfield site is located].

25 "Redevelopment project" means a specific [construction]  
26 remediation project [or improvement] undertaken, pursuant to the  
27 terms of a redevelopment agreement, by a developer within an area  
28 of land whereon a brownfield site is located. [A redevelopment  
29 project may involve construction or improvement upon lands,  
30 buildings, improvements, or real and personal property, or any  
31 interest therein, including lands under water, riparian rights, space  
32 rights, and air rights, acquired, owned, developed or redeveloped,  
33 constructed, reconstructed, rehabilitated, or improved.]

34 "Remediation" or "remediate" means all necessary actions to  
35 investigate and clean up or respond to any known, suspected, or  
36 threatened discharge of contaminants, including, as necessary, the  
37 preliminary assessment, site investigation, remedial investigation,  
38 and remedial action, or any portion thereof, as those terms are  
39 defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and  
40 hazardous materials abatement; hazardous materials or waste  
41 disposal; building and structural remedial activities, including, but  
42 not limited to, demolition, asbestos abatement, polychlorinated  
43 biphenyl removal, improvement and capping of landfills,  
44 contaminated wood or paint removal, or other infrastructure  
45 remedial activities; provided, however, "remediation" or  
46 "remediate" shall not include the payment of compensation for  
47 damage to, or loss of, natural resources.

1 "Remediation costs" means all reasonable costs associated with  
2 the remediation of a contaminated site, except any costs incurred in  
3 financing the remediation.  
4 (cf: P.L.2021, c.160, s.5)

5  
6 6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to  
7 read as follows:

8 12. a. A developer seeking a tax credit for a redevelopment  
9 project shall submit an application to the authority and the  
10 department in a form and manner prescribed in regulations adopted  
11 by the authority, in consultation with the department, pursuant to  
12 the provisions of the "Administrative Procedure Act," P.L.1968,  
13 c.410 (C.52:14B-1 et seq.).

14 b. A redevelopment project shall be eligible for a tax credit  
15 only if the developer demonstrates to the authority and the  
16 department at the time of application that:

17 (1) except as ordered by a government official with jurisdiction  
18 over the brownfield site or certified by a Licensed Site Remediation  
19 Professional to correct or prevent the spread of a health, safety, or  
20 other hazard, and as provided in subsection j. of this section, the  
21 developer has not commenced any remediation or clean up at the  
22 site of the redevelopment project, except for preliminary  
23 assessments and investigations, prior to applying for a tax credit  
24 pursuant to this section, but intends to remediate **【and redevelop】**  
25 the site immediately upon approval of the tax credit;

26 (2) the redevelopment project is located on a brownfield site;

27 (3) without the tax credit, the redevelopment project is not  
28 economically feasible;

29 (4) a project financing gap exists for projects located outside of  
30 a government-restricted municipality that have a total remediation  
31 cost of \$5,000,000 or greater;

32 (5) the developer **【has obtained and submitted】** shall obtain and  
33 submit to the authority, before approval by the board, a letter  
34 evidencing support for the redevelopment project from the  
35 governing body of the municipality in which the redevelopment  
36 project is located; and

37 (6) each worker employed to perform remediation, construction,  
38 or building services work at the redevelopment project shall be paid  
39 not less than the prevailing wage rate for the worker's craft or trade,  
40 as determined by the Commissioner of Labor and Workforce  
41 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).  
42 The prevailing wage requirements shall apply for remediation or  
43 construction work through the completion of the redevelopment  
44 project, and the prevailing wage requirements shall apply for  
45 building services work at the site of the redevelopment project for  
46 10 years following completion of the redevelopment project. In the  
47 event a redevelopment project, or the aggregate of all  
48 redevelopment projects approved for an award under the program,

1 constitute a lease of more than 35 percent of a facility, the  
2 prevailing wage requirements shall apply to the entire facility.

3 c. A redevelopment project that received a reimbursement  
4 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
5 through 58:10B-31) shall not be eligible to apply for a tax credit  
6 under the program. If the authority receives an application and  
7 supporting documentation for approval of a reimbursement pursuant  
8 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through  
9 58:10B-31) prior to the effective date of sections 9 through 19 of  
10 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the  
11 authority may consider the application and award a tax credit to a  
12 developer, provided that the authority shall take final action on all  
13 applications for approval of a reimbursement pursuant to sections  
14 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)  
15 no later than July 1, 2019. No applications shall be submitted  
16 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
17 through 58:10B-31) after the effective date of sections 9 through 19  
18 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

19 d. (1) Prior to approval of an application, the authority shall  
20 confirm with the Department of Labor and Workforce  
21 Development, the Department of Environmental Protection, and the  
22 Department of the Treasury whether the developer is in substantial  
23 good standing with the respective department, or has entered into an  
24 agreement with the respective department that includes a practical  
25 corrective action plan for the developer. The authority may also  
26 contract with an independent third party to perform a background  
27 check on the developer. The developer shall certify that any  
28 contractors or subcontractors that perform work at the  
29 redevelopment project: (a) are registered as required by "The Public  
30 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-  
31 56.48 et seq.); (b) have not been debarred by the Department of  
32 Labor and Workforce Development from engaging in or bidding on  
33 Public Works Contracts in New Jersey, and (c) possess a tax  
34 clearance certificate issued by the Division of Taxation in the  
35 Department of the Treasury. Provided that the developer is in  
36 substantial good standing with the Department of Labor and  
37 Workforce Development, the Department of Environmental  
38 Protection, and the Department of the Treasury, or has entered into  
39 such an agreement, and following approval of an application by the  
40 board, the authority shall enter into a redevelopment agreement  
41 with the developer, as provided for in section 13 of P.L.2020, c.156  
42 (C.34:1B-281).

43 (2) The authority, in consultation with the department, may  
44 impose additional requirements upon an applicant through rule or  
45 regulation adopted pursuant to the provisions of the "Administrative  
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the  
47 authority or the department determines the additional requirements  
48 to be necessary and appropriate to effectuate the purposes of

1 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through  
2 C.34:1B-287).

3 e. The authority, in consultation with the department, shall  
4 conduct a review of the applications on a rolling basis, unless the  
5 authority determines that demand is likely to exceed available tax  
6 credits, and then through a competitive application process whereby  
7 the authority and the department shall evaluate all applications  
8 submitted by a date certain, as if all received applications were  
9 submitted on that date. To receive a tax credit award, a developer's  
10 application shall meet a minimum score, as determined by the  
11 authority. In addition to the eligibility criteria set forth in  
12 subsection b. of this section, the authority, in consultation with the  
13 department, may consider additional factors that may include, but  
14 shall not be limited to: the economic feasibility of the  
15 redevelopment project; the benefit of the redevelopment project to  
16 the community in which the remediation project is located; the  
17 degree to which the redevelopment project enhances and promotes  
18 **【job creation and】** economic development and reduces  
19 environmental or public health stressors in an overburdened  
20 community, as those terms are defined by section 2 of P.L.2020,  
21 c.92 (C.13:1D-158), and attendant department regulations; and, if  
22 the developer has a board of directors, the extent to which that  
23 board of directors is diverse and representative of the community in  
24 which the redevelopment project is located. The authority, in  
25 consultation with the department, shall submit applications that  
26 comply with the eligibility criteria set forth in this section, fulfill  
27 the additional factors considered by the authority pursuant to this  
28 subsection, satisfy the submission requirements, and provide  
29 adequate information for the subject application, to the board for  
30 final approval.

31 f. The authority shall award tax credits to redevelopment  
32 projects until either the available tax credits are exhausted or all  
33 redevelopment projects that are eligible for a tax credit pursuant to  
34 the provisions of sections 9 through 19 of P.L.2020, c.156  
35 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever  
36 occurs first. If insufficient funding exists to allow a tax credit to a  
37 developer in accordance with the provisions of subsection a. of  
38 section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may  
39 offer the developer a value of the tax credit below the amount  
40 provided for in subsection a. of section 16 of P.L.2020, c.156  
41 (C.34:1B-284).

42 g. A developer shall pay to the authority or to the department,  
43 as appropriate, the full amount of the direct costs of an analysis  
44 concerning the developer's application for a tax credit, which a third  
45 party retained by the authority or department performs, if the  
46 authority or department deems such retention to be necessary.

1 h. If the authority determines that a developer made a material  
2 misrepresentation on the developer's application, the developer shall  
3 forfeit all tax credits awarded under the program.

4 i. If circumstances require a developer to amend its application  
5 to the authority, then the developer, or an authorized agent of the  
6 developer, shall certify to the authority that the information  
7 provided in its amended application is true, under the penalty of  
8 perjury.

9 j. A developer who has commenced remediation or clean up at  
10 the site and who could not reasonably have known the full extent of  
11 the site contamination prior to commencing the remediation may  
12 still apply for a tax credit under the program, if the developer  
13 certifies to the authority, under the penalty of perjury, that the  
14 developer cannot reasonably finish the remediation and commence  
15 the redevelopment project absent the tax credit.

16 (cf: P.L.2021, c.160, s.6)

17  
18 7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to  
19 read as follows:

20 13. a. Following approval of an application by the board, but  
21 prior to the start of any remediation or clean up at the site of the  
22 redevelopment project, except activities disclosed at the time of  
23 approval or those in accordance with section 12 of P.L.2020, c.156  
24 (C.34:1B-280), the authority shall enter into a redevelopment  
25 agreement with the developer. The chief executive officer of the  
26 authority shall negotiate the terms and conditions of the  
27 redevelopment agreement on behalf of the State.

28 b. The redevelopment agreement shall specify the amount of  
29 the tax credit to be awarded to the developer, the date on which the  
30 developer shall complete the remediation, and the projected project  
31 remediation cost. The redevelopment agreement shall require the  
32 developer to submit progress reports to the authority and to the  
33 department every six months pursuant to section 15 of P.L.2020,  
34 c.156 (C.34:1B-283).

35 c. The authority shall not enter into a redevelopment agreement  
36 with a developer unless:

37 (1) the redevelopment project complies with standards  
38 established by the authority in accordance with the green building  
39 manual prepared by the Commissioner of Community Affairs  
40 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 (2) the redevelopment project complies with the authority's  
45 affirmative action requirements, adopted pursuant to section 4 of  
46 P.L.1979, c.303 (C.34:1B-5.4); and

47 (3) the developer pays each worker employed to perform  
48 remediation work, construction work, or building services work at

1 the redevelopment project not less than the prevailing wage rate in  
2 accordance with the requirements of paragraph (6) of subsection b.  
3 of section 12 of P.L.2020, c.156 (C.34:1B-280) for the worker's  
4 craft or trade, as determined by the Commissioner of Labor and  
5 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-  
6 56.25 et seq.).

7 d. The authority shall not enter into a redevelopment agreement  
8 unless the developer demonstrates, to the satisfaction of the  
9 Department of Environmental Protection, that the developer did not  
10 discharge a hazardous substance at the brownfield site proposed to  
11 be in the redevelopment agreement, is not in any way responsible  
12 for the hazardous substance, and is not a corporate successor to the  
13 discharger or to any person in any way responsible for the  
14 hazardous substance or to anyone liable for cleanup and removal  
15 costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

16 e. (1) Except as provided in paragraph (2) of this subsection,  
17 the authority shall not enter into a redevelopment agreement for a  
18 redevelopment project that includes at least one retail establishment  
19 that will have more than 10 employees, or at least one distribution  
20 center that will have more than 20 employees, unless the  
21 redevelopment agreement includes a precondition that any business  
22 that serves as the owner or operator of the retail establishment or  
23 distribution center enters into a labor harmony agreement with a  
24 labor organization or cooperating labor organizations which  
25 represent retail or distribution center employees in the State.

26 (2) A labor harmony agreement shall be required only if the  
27 State has a proprietary interest in the redevelopment project and  
28 shall remain in effect for as long as the State acts as a market  
29 participant in the redevelopment project. The authority may enter  
30 into a redevelopment agreement with a developer without the labor  
31 harmony agreement required under paragraph (1) of this subsection  
32 only if the authority determines that the redevelopment project  
33 would not be feasible if a labor harmony agreement is required.  
34 The authority shall support the determination by a written finding,  
35 which provides the specific basis for the determination.

36 (3) [As used in this subsection, "labor harmony agreement"  
37 means an agreement between a business that serves as the owner or  
38 operator of a retail establishment or distribution center and one or  
39 more labor organizations, which requires, for the duration of the  
40 agreement: that any participating labor organization and its  
41 members agree to refrain from picketing, work stoppages, boycotts,  
42 or other economic interference against the business; and that the  
43 business agrees to maintain a neutral posture with respect to efforts  
44 of any participating labor organization to represent employees at an  
45 establishment or other unit in the retail establishment or distribution  
46 center, agrees to permit the labor organization to have access to the  
47 employees, and agrees to guarantee to the labor organization the  
48 right to obtain recognition as the exclusive collective bargaining

1 representatives of the employees in an establishment or unit at the  
2 retail establishment or distribution center by demonstrating to the  
3 New Jersey State Board of Mediation, Division of Private  
4 Employment Dispute Settlement, or a mutually agreed-upon,  
5 neutral, third-party, that a majority of workers in the unit have  
6 shown their preference for the labor organization to be their  
7 representative by signing authorization cards indicating that  
8 preference. The labor organization or organizations shall be from a  
9 list of labor organizations that have requested to be on the list and  
10 that the Commissioner of Labor and Workforce Development has  
11 determined represent substantial numbers of retail or distribution  
12 center employees in the State.】 (Deleted by amendment, P.L. ,  
13 c. ) (pending before the Legislature as this bill)

14 f. The redevelopment agreement shall provide that issuance of  
15 a tax credit under the program shall be conditioned upon the  
16 subrogation to the department of all rights of the developer to  
17 recover remediation costs from any other person who discharges a  
18 hazardous substance or is in any way responsible, pursuant to  
19 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous  
20 substance that was discharged at the brownfield site.

21 g. A developer may seek a revision to the redevelopment  
22 agreement if the developer cannot complete the remediation on or  
23 before the date set forth in the redevelopment agreement. A  
24 developer's ability to change the date on which the developer shall  
25 complete the remediation shall be subject to the availability of tax  
26 credits in the year of the revised date of completion.

27 h. A developer shall submit to the authority satisfactory  
28 evidence of the actual remediation costs, as certified by a certified  
29 public accountant, and a Licensed Site Remediation Professional for  
30 costs under the jurisdiction of the "Site Remediation Reform Act,"  
31 sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as  
32 applicable, other appropriate licensed or certified professional for  
33 costs that are not under the jurisdiction of the "Site Remediation  
34 Reform Act," evidence of completion of the remediation as  
35 demonstrated by a Response Action Outcome where the  
36 remediation is subject to the "Site Remediation Reform Act," a  
37 certification from the appropriate licensed or certified professional  
38 for other remedial activities, and a certification that all information  
39 provided by the developer to the authority is true, including  
40 information contained in the application, the redevelopment  
41 agreement, any amendment to the redevelopment agreement, and  
42 any other information submitted by the developer to the authority  
43 pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277  
44 through C.34:1B-287). The developer, or an authorized agent of the  
45 developer, shall certify under the penalty of perjury that the  
46 information provided pursuant to this subsection is true.

47 i. The redevelopment agreement shall include a provision  
48 allowing the authority to recapture the tax credits for any year in

1 which the Department of Environmental Protection, the Department  
2 of Labor and Workforce Development, or the Department of the  
3 Treasury that advises the authority that the developer is not in  
4 substantial good standing with the respective department, nor has  
5 the developer entered into an agreement with the respective  
6 department that includes a practical corrective action plan for the  
7 developer. The redevelopment agreement shall also include a  
8 provision allowing the authority to recapture the tax credits for any  
9 year in which the developer fails to confirm that each contractor or  
10 subcontractor performing work at the redevelopment project: (1) is  
11 registered as required by "The Public Works Contractor  
12 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has  
13 not been debarred by the Department of Labor and Workforce  
14 Development from engaging in or bidding on Public Works  
15 Contracts in New Jersey; and (3) possesses a tax clearance  
16 certificate issued by the Division of Taxation in the Department of  
17 the Treasury. **【The redevelopment agreement shall also require a  
18 developer to engage in on-site consultations with the Division of  
19 Workplace Safety and Health in the Department of Health.】**  
20 (cf: P.L.2021, c.160, s.7)

21

22 8. Section 14 of P.L.2020, c.156 (C.34:1B-282) is amended to  
23 read as follows:

24 14. **【To】** In addition to the submission of any additional  
25 evidence that the authority may request to verify that activities  
26 comply with local, state, and federal regulations, to qualify for a tax  
27 credit under the program, a developer shall, as applicable:

28 a. enter into **【a memorandum of agreement】** an administrative  
29 consent order or other oversight document with the Commissioner  
30 of Environmental Protection in accordance with the provisions of  
31 section 37 of P.L.1997, c.278 (C.58:10B-29); **【or】**

32 b. comply with the requirements set forth in subsection b. of  
33 section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of  
34 the site of the redevelopment project; or

35 c. comply with the rules, regulations, and guidelines by the  
36 federal government, the New Jersey Department of Labor and  
37 Workforce Development, the New Jersey Department of Health,  
38 and the New Jersey Department of Community Affairs regarding  
39 requirements for remediation of asbestos, contaminated paint,  
40 polychlorinated biphenyls, and other environmental hazards.

41 (cf: P.L.2020, c.156, s.14)

42

43 9. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to  
44 read as follows:

45 16. a. Upon completion of the remediation, the developer shall  
46 seek certification from the authority, in consultation with the  
47 department, that:

48 (1) the remediation is complete;

1 (2) the developer complied with the requirements of section 14  
2 of P.L.2020, c.156 (C.34:1B-282), as applicable, and section 15 of  
3 P.L.2020, c.156 (C.34:1B-283)**],** including the requirements of any  
4 memorandum of agreement or other oversight document that the  
5 developer may have executed with the Commissioner of  
6 Environmental Protection pursuant to that section**];** and

7 (3) the remediation costs were actually and reasonably incurred.

8 Upon receipt of certification, and confirmation by the authority  
9 that the developer's obligations under the redevelopment agreement  
10 have been met, a developer shall be awarded a credit against the tax  
11 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
12 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),  
13 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as  
14 follows: (a) for project located in a qualified incentive tract or  
15 government-restricted municipality, in an amount not to exceed  
16 **[60]** 80 percent of the actual remediation costs, or **[60]** 80 percent  
17 of the projected remediation costs as set forth in the redevelopment  
18 agreement, or **[\$8,000,000]** \$12,000,000, whichever is least; **[and]**  
19 (b) for a project erecting a solar panel array on the site of a closed  
20 sanitary landfill, in an amount not to exceed 100 percent of the  
21 costs of remediation and capping of the landfill, or \$12,000,000 if  
22 the project is located in a qualified incentive tract or government-  
23 restricted municipality, or \$8,000,000 if the project is located  
24 anywhere else in the State, whichever is least; and (c) for all other  
25 projects, in an amount not to exceed **[50]** 60 percent of the actual  
26 remediation costs, or **[50]** 60 percent of the projected remediation  
27 costs as set forth in the redevelopment agreement, or **[\$4,000,000]**  
28 \$8,000,000, whichever is least. The developer, or an authorized  
29 agent of the developer, shall certify that the information provided to  
30 the department and the authority pursuant to this subsection is true  
31 under the penalty of perjury.

32 b. When filing an application for certification pursuant to  
33 subsection a. of this section, the developer shall submit to the  
34 department and the authority: (1) the total remediation costs  
35 incurred by the developer for the remediation of the subject  
36 property located at the site of the redevelopment project, as  
37 provided in the redevelopment agreement, and certified by a  
38 certified public accountant, and a Licensed Site Remediation  
39 Professional for costs under the jurisdiction of the "Site  
40 Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60  
41 (C.58:10C-1 et seq.), and as applicable, other appropriate licensed  
42 or certified professional for costs that are not under the jurisdiction  
43 of the "Site Remediation Reform Act"; (2) evidence of completion  
44 of the remediation, as demonstrated by a Response Action Outcome  
45 where the remediation is subject to the "Site Remediation Reform  
46 Act"; (3) a certification from the appropriate licensed or certified  
47 professional for other remedial activities; (4) as applicable,

1 information concerning the occupancy rate of **the** any buildings  
2 or other work areas located on the property subject to the  
3 redevelopment agreement; and (5) such other information as the  
4 department deems necessary in order to make the certifications and  
5 findings pursuant to this section.

6 c. A developer shall apply the credit awarded against the  
7 developer's liability for the tax imposed pursuant to section 5 of  
8 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132  
9 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231  
10 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during  
11 which the **department** director awards the developer a tax credit  
12 pursuant to subsection a. of this section. A developer shall not  
13 carry forward any unused credit.

14 d. The director shall prescribe the order of priority of the  
15 application of the credit awarded under this section and any other  
16 credits allowed by law against the tax imposed under section 5 of  
17 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
18 under this section against the tax imposed pursuant to section 5 of  
19 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
20 any other credits allowed by law, shall not reduce the tax liability to  
21 an amount less than the statutory minimum provided in subsection  
22 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

23 (cf: P.L.2021, c.160, s.8)

24

25 10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to  
26 read as follows:

27 19. a. Notwithstanding the provisions of the "Administrative  
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
29 contrary, the chief executive officer of the authority, in consultation  
30 with the Commissioner of Environmental Protection, may adopt,  
31 immediately upon filing with the Office of Administrative Law,  
32 regulations that the chief executive officer and commissioner deem  
33 necessary to implement the provisions of sections 9 through 19 of  
34 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which  
35 regulations shall be effective for a period not to exceed 360 days  
36 from the date of the filing. The chief executive officer, in  
37 consultation with the Commissioner of Environmental Protection,  
38 shall thereafter amend, adopt, or readopt the regulations in  
39 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
40 et seq.). The rules shall require annual reporting by developers that  
41 receive tax credits pursuant to the program, in addition to the  
42 regular progress updates. As part of the authority's review of the  
43 annual reports required from a developer, the authority shall  
44 confirm with the Department of Labor and Workforce  
45 Development, the Department of Environmental Protection, and the  
46 Department of the Treasury that the developer is in substantial good  
47 standing with the respective department, or has entered into an  
48 agreement with the respective department that includes a practical

1 corrective action plan, and the developer shall certify that any  
2 contractors or subcontractors performing work at the redevelopment  
3 project: a. are registered as required by "The Public Works  
4 Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et  
5 seq.); b. have not been debarred by the Department of Labor and  
6 Workforce Development from engaging in or bidding on Public  
7 Works Contracts in New Jersey; and c. possess a tax clearance  
8 certificate issued by the Division of Taxation in the Department of  
9 the Treasury. The rules and regulations adopted pursuant to this  
10 section shall also include a provision to require that, in any year in  
11 which the developer is not in substantial good standing with the  
12 Department of Labor and Workforce Development, the Department  
13 of Environmental Protection, or the Department of the Treasury, the  
14 developer may forfeit all tax credits awarded in that year, and to  
15 allow the authority to extend, in individual cases, the deadline for  
16 any annual reporting requirement established pursuant to this  
17 section.

18 b. Notwithstanding any provision of the "Administrative  
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
20 contrary, the chief executive officer of the authority may adopt,  
21 immediately upon filing with the Office of Administrative Law,  
22 rules and regulations necessary to implement the provisions of  
23 P.L. , c. (pending before the Legislature as this bill). The rules  
24 and regulations adopted pursuant to this section shall be effective  
25 for a period not to exceed 365 days following the date of filing and  
26 may thereafter be amended, adopted, or readopted by the director in  
27 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
28 et seq.).

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

30

31 11. This act shall take effect immediately, except that: sections  
32 2 and 3 shall apply retroactively to unapproved applications  
33 pending before December 1, 2023; sections 1 and 4 shall take effect  
34 upon adoption of the rules in accordance with section 3 and shall  
35 apply to applications received by the authority after such date; and  
36 sections 5 through 9 shall take effect upon adoption of the rules in  
37 accordance with section 10 and shall apply to applications received  
38 by the authority after such date.

39

40

41

#### STATEMENT

42

43 This bill revises various provisions of the "New Jersey Economic  
44 Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.)  
45 concerning the Historic Property Reinvestment Program and the  
46 Brownfields Redevelopment Incentive Program.

1 *The Historic Property Reinvestment Program*

2 The bill revises the amount of credits that may be awarded to  
3 eligible business entities under the program. Specifically, the bill  
4 increases the maximum size of tax credits awarded under the  
5 program and allows for certain facade rehabilitation projects to be  
6 eligible for a tax credit award.

7 Under the bill, the credits awarded for the rehabilitation of a  
8 qualified property located in a qualified incentive tract or  
9 government-restricted municipality are increased to 60 percent of  
10 the cost of rehabilitation or \$12 million, whichever is less. Under  
11 current law, these credit amounts are equal to 45 percent of the cost  
12 of rehabilitation or \$8 million, whichever is less. The credits  
13 awarded for the rehabilitation of any other qualified property, other  
14 than a transformative project, are also increased to 50 percent of the  
15 cost of rehabilitation or \$8 million, whichever is less. Under  
16 current law, these credit amounts are equal to 40 percent of the cost  
17 of rehabilitation or \$4 million, whichever is less. The bill also  
18 revises the tax credit eligibility requirement for a business to  
19 demonstrate a project financing gap to apply only to projects  
20 located outside of a government-restricted municipality that have a  
21 total rehabilitation cost or total façade rehabilitation cost of at least  
22 \$5 million.

23 The bill provides the Economic Development Authority (EDA)  
24 with the discretion to make up to 50 percent of the tax credits  
25 available for distribution in a given year to be made available for  
26 facade rehabilitation projects. The value of tax credits awarded to a  
27 facade rehabilitation project are 50 percent of the project's cost of  
28 façade rehabilitation, up to a maximum of \$4 million. The bill  
29 defines "facade rehabilitation projects" to mean a project consisting  
30 of the repair or reconstruction of exterior building features,  
31 including but not limited to structural components embedded within  
32 exterior walls, masonry units and mortar, exterior siding fabric,  
33 doors, windows, exterior lighting fixtures, and decorative  
34 components, such as metalwork, terracotta units and cast stone  
35 which constitute the facades of a qualified property or  
36 transformative property.

37

38 *The Brownfields Redevelopment Incentive Program*

39 The bill revises various provisions relating to the application  
40 process for a developer and, following authority approval of the  
41 application, the subsequent redevelopment agreement between a  
42 developer and the authority. The bill also provides that the EDA  
43 would accept applications on a rolling basis, unless the EDA  
44 determines that the demand for tax credits is likely to exceed the  
45 availability of credits, in which case applications would be  
46 reviewed on a competitive basis and submitted before a date certain.

47 Under the bill, the value of credits awarded for the remediation  
48 of a redevelopment project located in a qualified incentive tract or

1 government-restricted municipality is increased to up to 80 percent  
2 of the actual remediation costs, 80 percent of the projected  
3 remediation costs set forth in the redevelopment agreement, or \$12  
4 million, whichever is less. Under current law, these credit amounts  
5 are equal to 60 percent of the actual remediation costs, 60 percent  
6 of the projected remediation costs set forth in the redevelopment  
7 agreement, or \$8 million, whichever is less.

8 The bill specifies the amount of tax credits that may be awarded  
9 for a redevelopment project erecting a solar panel array on the site  
10 of a closed sanitary landfill. If the project is located in a qualified  
11 incentive tract or a government-restricted municipality, the value of  
12 the tax credit would be in an amount equal to 100 percent of the  
13 costs of remediation or \$12 million, whichever is less. If the  
14 project is located anywhere else in the State, the value of tax credit  
15 would be in an amount equal to 100 percent of the costs of  
16 remediation or \$8 million, whichever is less.

17 Under the bill, the value of credits awarded for the remediation  
18 of all other redevelopment projects is increased to up to 60 percent  
19 of the actual remediation costs, 60 percent of the projected  
20 remediation costs set forth in the redevelopment agreement, or \$8  
21 million, whichever is less. Under current law, these credit amounts  
22 are equal to 50 percent of the actual remediation costs, 50 percent  
23 of the projected remediation costs set forth in the redevelopment  
24 agreement, or \$4 million, whichever is less.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 3479

# STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3479.

This bill revises various provisions of the “New Jersey Economic Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.) concerning the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program.

#### *The Historic Property Reinvestment Program*

The bill revises the amount of credits that may be awarded to eligible business entities under the program. Specifically, the bill increases the maximum size of tax credits awarded under the program and allows for certain facade rehabilitation projects to be eligible for a tax credit award.

Under the bill, the credits awarded for the rehabilitation of a qualified property located in a qualified incentive tract or government-restricted municipality are increased to 60 percent of the cost of rehabilitation or \$12 million, whichever is less. Under current law, these credit amounts are equal to 45 percent of the cost of rehabilitation or \$8 million, whichever is less. The credits awarded for the rehabilitation of any other qualified property, other than a transformative project, are also increased to 50 percent of the cost of rehabilitation or \$8 million, whichever is less. Under current law, these credit amounts are equal to 40 percent of the cost of rehabilitation or \$4 million, whichever is less. The bill also revises the tax credit eligibility requirement for a business to demonstrate a project financing gap to apply only to projects located outside of a government-restricted municipality that have a total rehabilitation cost or total facade rehabilitation cost of at least \$5 million.

The bill provides the Economic Development Authority (EDA) with the discretion to make up to 50 percent of the tax credits available for distribution in a given year to be made available for facade rehabilitation projects. The value of tax credits awarded to a facade rehabilitation project are 50 percent of the project’s cost of facade rehabilitation, up to a maximum of \$4 million. The bill defines “facade rehabilitation projects” to mean a project consisting of the repair or reconstruction of exterior building features, including but not limited to structural components embedded within exterior walls, masonry units and mortar, exterior siding fabric, doors, windows,

exterior lighting fixtures, and decorative components, such as metalwork, terracotta units and cast stone which constitute the facades of a qualified property or transformative property.

*The Brownfields Redevelopment Incentive Program*

The bill revises various provisions relating to the application process for a developer and, following authority approval of the application, the subsequent redevelopment agreement between a developer and the authority. The bill also provides that the EDA would accept applications on a rolling basis, unless the EDA determines that the demand for tax credits is likely to exceed the availability of credits, in which case applications would be reviewed on a competitive basis and submitted before a date certain.

Under the bill, the value of credits awarded for the remediation of a redevelopment project located in a qualified incentive tract or government-restricted municipality is increased to up to 80 percent of the actual remediation costs, 80 percent of the projected remediation costs set forth in the redevelopment agreement, or \$12 million, whichever is less. Under current law, these credit amounts are equal to 60 percent of the actual remediation costs, 60 percent of the projected remediation costs set forth in the redevelopment agreement, or \$8 million, whichever is less.

The bill specifies the amount of tax credits that may be awarded for a redevelopment project erecting a solar panel array on the site of a closed sanitary landfill. If the project is located in a qualified incentive tract or a government-restricted municipality, the value of the tax credit would be in an amount equal to 100 percent of the costs of remediation or \$12 million, whichever is less. If the project is located anywhere else in the State, the value of tax credit would be in an amount equal to 100 percent of the costs of remediation or \$8 million, whichever is less.

Under the bill, the value of credits awarded for the remediation of all other redevelopment projects is increased to up to 60 percent of the actual remediation costs, 60 percent of the projected remediation costs set forth in the redevelopment agreement, or \$8 million, whichever is less. Under current law, these credit amounts are equal to 50 percent of the actual remediation costs, 50 percent of the projected remediation costs set forth in the redevelopment agreement, or \$4 million, whichever is less.

**FISCAL IMPACT:**

The Office of Legislative Services concludes that the bill will result will result in a net loss of State revenues over a multi-year period. This bill modifies various provisions of current law governing the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program.

The provisions of the bill increasing the maximum amount of tax credits that may be awarded to an individual project through either program will result in a State revenue loss to the extent that the developers of qualified properties and redevelopment projects qualify for larger tax credit awards permitted under current law.

By revising the tax credit eligibility requirement for a business to demonstrate a project financing gap so that it applies only to projects located outside of a government-restricted municipality that have total rehabilitation costs, total façade rehabilitation costs, or total remediation costs of at least \$5 million, the bill will result in a State revenue loss to the extent that these modifications allow developers to receive tax credits for which they may not be eligible under current law.

The provision of the bill allowing the Economic Development Authority to allocate to façade rehabilitation projects up to 50 percent of the tax credits available for distribution in any given year will result in a State revenue loss to the extent that it allows developers to receive tax credits for which they are not eligible under current law.

Current law provides the total amount of tax credits awarded annually through the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program at \$50 million each during the first six years of the nine-year period following enactment of the “New Jersey Economic Recovery Act of 2020.” Although the bill increases the maximum amount of tax credits that may be awarded to eligible projects and the types of projects that may qualify for tax credit awards, the bill does not alter the current statutory tax credit for each program.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 3479**  
**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

DATED: JULY 3, 2024

**SUMMARY**

**Synopsis:** Modifies certain provisions of Historic Property Reinvestment and Brownfields Redevelopment Incentive programs.

**Type of Impact:** Multi-year net decrease in State revenues.

**Agencies Affected:** New Jersey Economic Development Authority.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Multi-Year Life Span of Tax Credit Awards</u></b>
<b>Net State Revenue Decrease</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result will result in a net loss of State revenues over a multi-year period. The bill increases the maximum tax credit awards under the Historic Property Reinvestment Program and the Brownfields Redevelopment Program and extends eligibility for tax credit awards under each program to new types of projects.
- The provisions of the bill increasing the maximum amount of tax credits that may be awarded to an individual project through either program will result in a State revenue loss to the extent that the developers of qualified properties and redevelopment projects qualify for larger tax credit awards than permitted under current law.
- By requiring a business to demonstrate that a project financing gap exists only for projects located outside of a government-restricted municipality with rehabilitation or remediation cost of \$5 million, the bill will result in a State revenue loss because certain projects may qualify for tax credits for which they are not eligible under current law.
- The provisions of the bill allowing the Economic Development Authority to award tax credits to facade rehabilitation projects or a for a redevelopment project erecting a solar panel array on the site of a closed sanitary landfill will result in a State revenue loss to the extent that it allows developers to receive tax credits for which they are not eligible under current law.

## **BILL DESCRIPTION**

The bill revises various provisions of the New Jersey Economic Recovery Act of 2020 concerning the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program. The Historic Property Reinvestment Program provides tax credits on a competitive basis to support the rehabilitation of identified historic properties. The Brownfields Redevelopment Incentive Program provides project-based tax credits to incentivize environmental remediation, abatement, and demolition activities that will allow for the redevelopment of brownfield sites for commercial, retail, or mixed use. Both of these programs are administered by the Economic Development Authority.

The bill increases the maximum tax credit award for projects eligible for tax credit awards under both programs, regardless of where the project is located. The bill also allows the authority to award tax credits to facade rehabilitation projects and for a redevelopment projects involving the erection of a solar panel array on the site of a closed sanitary landfill.

The bill amends the project financing gap requirements for both programs. Current law requires applicants to demonstrate that a project financing gap exists for all projects, without regard to where that project is located. The bill amends current law governing both programs to provide that a business must demonstrate a project financing gap only for projects located outside of a government-restricted municipality that have total rehabilitation costs, total facade rehabilitation costs, or total remediation costs of at least \$5 million.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that the bill will result will result in a net loss of State revenues over a multi-year period. The OLS notes that the any revenue loss will be: a) temporally limited because current law places restrictions on the time period during which the authority may award tax credits through each program and b) spread out over several years since unused tax credits awarded under the Historic Property Reinvestment Program may be carried forward for up to nine privilege periods following the privilege period in which the credit was first allowed. Current law does not allow for the carry forward of unused tax credits awarded under the Brownfields Redevelopment Incentive Program.

The provisions of the bill increasing the maximum amount of tax credits that may be awarded to an individual project through either program will result in a State revenue loss to the extent that the developers of qualified properties and redevelopment projects qualify for larger tax credit awards permitted under current law.

By revising the tax credit eligibility requirement for a business to demonstrate a project financing gap so that it applies only to projects located outside of a government-restricted municipality that have total rehabilitation costs, total façade rehabilitation costs, or total remediation costs of at least \$5 million, the bill will result in a State revenue loss to the extent that these modifications allow developers to receive tax credits for which they may not be eligible under current law.

The provision of the bill allowing the Economic Development Authority to award tax credits to facade rehabilitation projects or a for a redevelopment project erecting a solar panel array on the site of a closed sanitary landfill will result in a State revenue loss to the extent that it allows developers to receive tax credits for which they are not eligible under current law.

Current law provides the total amount of tax credits awarded annually through the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program at \$50 million each during the first six years of the nine-year period following enactment of the New Jersey Economic Recovery Act of 2020. Although the bill increases the maximum amount of tax credits that may be awarded to eligible projects and the types of projects that may qualify for tax credit awards, the bill does not alter the current statutory tax credit cap for each program.

*Section: Revenue, Finance, and Appropriations*

*Analyst: Scott A. Brodsky  
Staff Fiscal & Budget 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.).