34:1B-384 to 34:1B-387, Sec.16 Repealer et al
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2025 **CHAPTER:** 127

NJSA: 34:1B-384 to 34:1B-387, Sec.16 Repealer et al Modifies provisions of Cultural Arts Incentives Program, New Jersey Aspire Program, and Grow New Jersey Program; eliminates Community-Anchored Development Program.

BILL NO: A5378 (Substituted for S4255 (2R))

SPONSOR(S) Abdelaziz, Al and others

DATE INTRODUCED: 2/27/2025

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: Budget & Appropriations

AMENDED DURING PASSAGE: Yes

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

SENATE: 06/30/2025

DATE OF APPROVAL: 8/15/2025

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (A5378 AcaSca (2R) enacted)

ADVANCE LAW Yes

PAMPHLET LAW Yes

A5378

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

REPRINT(S): Yes AAP 5/15/25 1R
SBA 6/26/25 2R

TECHNICAL REVIEW OF BILL: No

COMMITTEE STATEMENT: **ASSEMBLY**: Yes Appropriations

SENATE: Yes Budget & Appropriations

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

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 05/27/2025
07/03/2025

S4255 (2R)

INTRODUCED BILL: (Includes sponsor(s) statement)		Yes	
REPRINT(S):		Yes	SEG 5/22/25 1R SBA 6/26/25 2R
TECHNICAL REVIEW OF BILL:		No	
COMMITTEE STATEMENT:	**ASSEMBLY**:	No	
	SENATE:	Yes	Economic Growth Budget & Appropriations

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

FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	06/25/2025 07/03/2025

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

LEGISLATOR STATEMENT: No

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CL/MMcB

P.L. 2025, CHAPTER 127, ***approved August 15, 2025***
Assembly, No. 5378 ***(Second Reprint)***

AN ACT concerning State economic development policy, amending various parts of the statutory law, and repealing sections 43 through 53 of P.L.2020, c.156.

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

1. Section 2 of P.L.2023, c.197 (C.34:1B-384) is amended to read as follows:

2. The Legislature finds and declares that:

a. The New Jersey Economic Development Authority can effectively utilize cultural arts institution facilities as catalysts for broad economic development in targeted communities. Under the legislation, facilities engaged in the cultural, educational, or artistic enrichment of the people of this State are provided with the opportunity to facilitate targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the ability of cultural arts institution facilities to attract visitors and businesses to the State by leveraging the incalculable economic and cultural benefits of building and supporting world class cultural arts institutions.

b. Projects involving the development or rehabilitation of a cultural arts institution facility are inherently beneficial to the State because they provide vital contributions to the communities in which they are located, and together the arts community provides immeasurable economic and cultural benefits to the State.

c. **[**Through a competitive application process, a cultural arts institution will make its case for an amount of tax credits necessary for a project to be able to establish occupancy costs at a competitive level.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

d. The Legislature declares that two principal objectives underscore the policy approach of this legislation: first, that providing spaces for arts and culture to flourish will result in thriving communities; and second, the State must help to provide these spaces through an incentives program that better reflects the economics of arts and culture facilities and that the current suite of real estate programs cannot succeed in this endeavor.

(cf: P.L.2023, c.197, s.2)

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AAP committee amendments adopted May 15, 2025.
[2]Senate SBA committee amendments adopted June 26, 2025.

2. Section 3 of P.L.2023, c.197 (C.34:1B-385) is amended to read as follows:

3. As used in P.L.2023, c.197 (C.34:1B-383 et al.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by a cultural arts institution. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A cultural arts institution may establish by clear and convincing evidence, as determined by the authority, that control exists in situations involving lesser percentages of ownership if the cultural arts institution shall have control, at a minimum, of all aspects of compliance with this program. An affiliate of a cultural arts institution may contribute to the project cost and may satisfy the requirement for site control during construction and the eligibility period, but in no event shall the tax credit certificate be issued to any affiliate.

"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 by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Cultural arts institution" means a governmental entity or nonprofit or governmental economic or community development entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, operating on a not-for-profit basis, and having [2][the] a[2] [primary] mission [2][and specific policy goal][2] of [2], or experience in,[2] cultural, educational, or artistic enrichment of the people of this State. A "cultural arts institution" shall include a for-profit business seeking a tax credit for a cultural arts institution facility open to the public provided that the cultural arts institution facility is receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). A “cultural arts institution” shall include [2][the National Park Service] any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts[2] . A “cultural arts institution” shall also include a developer that has a partnership agreement with [2][any of the foregoing] the National Park Service[2] .

"Cultural arts institution facility" means an existing or proposed facility within this State, operated and maintained by a cultural arts institution [2]or the National Park Service[2]. A "cultural arts institution

facility" includes, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, [2]war memorial or museum,[2] or any related facility that is principally for the support and benefit of any of the foregoing.

"Cultural arts project" means a capital project for the construction or improvement of a cultural arts institution facility that is located in the State for which a cultural arts institution is to be awarded tax credits by the authority under the program pursuant to a tax credit agreement, provided that the project for which the tax credits are awarded will result in a capital investment of at least $5,000,000.

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

"Eligibility period" means the period during which a cultural arts institution may claim, sell, transfer, or otherwise use a tax credit under the program, beginning with the tax period in which the authority accepts certification of the cultural arts institution that it has met the capital investment requirements of the program and extending thereafter for a term of at least five years.

"Eligible position" means a full-time position in an entity in this State which the entity has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156, 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.

"New full-time job" means an eligible position created by a cultural arts institution at a cultural arts project that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the cultural arts institution.

["Operating reserve" means an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.**]**

"Program" means the Cultural Arts Incentives Program established pursuant to section 4 of P.L.2023, c.197 (C.34:1B-386).

"Project cost" means the costs incurred in connection with a cultural arts project by a cultural arts institution until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs, and the cost of infrastructure improvements, including ancillary infrastructure projects. The fees associated with the application or administration of tax credits under P.L.2023, c.197 (C.34:1B-383 et al.) shall not constitute a project cost. [2]**[**The project cost shall not include costs incurred by a cultural arts institution for construction activities undertaken prior to the date of application for the program.**]**[2]

"Project financing gap" means the part of the total project 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 capital contributed by the cultural arts institution, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans; provided, however, that for a cultural arts project located in a government-restricted municipality, the capital contributed by the cultural arts institution shall not be less than 10 percent of the total project cost.

"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.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 8 of P.L.2023, c.197 (C.34:1B-390) between the authority and a cultural arts institution.

"Work First New Jersey program" means the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

(cf: P.L.2023, c.197, s.3)

3. Section 4 of P.L.2023, c.197 (C.34:1B-386) is amended to read as follows:

4. a. The Cultural Arts Incentives Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The board shall certify an eligible cultural arts institution based on the requirements of section 5 of P.L.2023,

c.197 (C.34:1B-387), and may approve the award of a tax credit to a cultural arts institution pursuant to the provisions of P.L.2023, c.197 (C.34:1B-383 et al.). The value of all tax credits approved by the authority to cultural arts institutions under the program shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). Any tax credit awarded under the program may be utilized by a cultural arts institution for the same project in conjunction with a tax credit award made pursuant to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); provided, however, that any tax credit awarded under the program shall not be considered to be developer contributed capital for the purposes of calculating the project financing gap for an incentive award under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

b. (1) The authority shall administer the program to incentivize the establishment of cultural arts projects by a cultural arts institution independently or in collaboration with one or more governmental entities. A cultural arts project involving the development or rehabilitation of a cultural arts institution facility shall be eligible for a tax credit award in an amount not to exceed 100 percent of eligible project costs**[**, except, in the case of a cultural arts institution operating on a not-for-profit basis, the tax credit award may include up to 100 percent of such cultural arts institution's appropriate operating reserve as determined by the authority**]**. The value of tax credits approved by the authority under the program for a cultural arts project shall not exceed $75,000,000 per cultural arts project.

(2) (a) A cultural arts institution shall sell and transfer the tax credits awarded under the program, or adopt a plan to use such tax credits in order to finance the completion of the cultural arts project. A cultural arts institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an equity investment in, or secure other financial support for, the cultural arts project that will permit the cultural arts institution to develop the cultural arts project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the cultural arts project. The authority shall evaluate each proposed cultural arts project to determine the likelihood of the project's success. A cultural arts institution shall submit to the authority an independent market study showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful. The authority may procure third party consultants to determine a project's likelihood of success.

(b) Consistent with an applicable tax credit agreement, a tax credit awarded to a cultural arts institution may be applied against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132

(C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.
(cf: P.L.2023, c.197, s.4)

4. Section 5 of P.L.2023, c.197 (C.34:1B-387) is amended to read as follows:

5. a. A cultural arts institution shall be eligible to receive a tax credit under the program only if the cultural arts institution is eligible pursuant to subsection b. of this section and submits a program application to the authority that results in completion of a cultural arts project.

b. At the time of application, a cultural arts institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed cultural arts project will result in a capital investment of at least $5,000,000 [2], which may include, for a project for which an applicant has commenced construction before the submission of an application, costs incurred before the date of application, provided that such costs would have otherwise qualified as project costs[2];

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete the cultural arts project and then , unless the cultural arts institution facility is to be operated by the National Park Service [2][or a developer that has a partnership agreement with the cultural arts institution]2, operate the cultural arts [project] institution facility;

(3) that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless:

(a) the authority determines that the cultural arts project would not be completed without an award of tax credits under the program; or

(b) the construction activities are limited to general maintenance, [2][necessary repairs,]2 demolition, environmental assessment, environmental investigation, and environmental remediation;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the cultural arts institution to finance the establishment of the cultural arts project;

(5) the total aggregate value of the tax credits for the entire eligibility period that is necessary in order for the cultural arts institution to finance the establishment of the cultural arts project;

(6) that the cultural arts project shall comply with the standards established by the authority through regulation based on 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 in order to reduce environmental degradation and encourage long-term cost reduction;

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

(8) a description of the significant economic, social, planning, employment, and other benefits that would accrue to the State, county, or municipality from the cultural arts project;

(9) that during the eligibility period, each worker employed to perform construction work and building services work at the cultural arts 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.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the cultural arts project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to construction work and building services work at the entire facility. In the event the cultural arts project constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(10) that [2]**[**during the eligibility period,**]** , unless the cultural arts institution facility is to be operated by the National Park Service,[2] the cultural arts institution shall [2]**[**partner with one or more local community organizations that provide**]** either:

(a) provide[2] support and services to Work First New Jersey program recipients [2]**[**, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients, which activities and services may include, but shall not be limited to: work-study programs, internships, sector-based contextualized literacy training, skills-based training in growth industries in the State, and job retention and advancement services**]** during the eligibility period; or

(b) have provided support and services to Work First New Jersey program recipients on or after December 21, 2023[2];

(11) that the timing of the award of tax credits under the program shall allow for the successful completion and operation of the cultural arts project demonstrated through an independent market study submitted by the applicant showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful; and that the cultural arts institution has a strong prior track record of success or an independent analysis demonstrates that a newly formed cultural arts institution will be successful;

(12) a project financing gap exists, or the authority determines that the cultural arts project will generate a below market rate of return. The authority shall evaluate past and projected fundraising efforts of the cultural arts institution to determine whether a project financing gap exists;

(13) that, unless the cultural arts institution facility is to be operated by the National Park Service [2]**[**or a developer that has a

partnership agreement with the cultural arts institution]², the cultural arts institution will have ownership of, or lease space in, the cultural arts institution facility and operate or hold an operating agreement for at least the eligibility period; and

(14) that the cultural arts institution will have at least 20 percent equity in the cultural arts project, which equity interest may include amounts contributed through government grants, not including economic subsidies provided by the authority, received by the cultural arts institution; provided, however, for a cultural arts project located in a government-restricted municipality, the equity required shall not be less than 10 percent.

c. Prior to the board considering an application submitted by a cultural arts institution, 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 cultural arts institution 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. The cultural arts institution shall certify that any contractors or subcontractors that will perform work at the cultural arts 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 authority may also contract with an independent third party to perform a background check on a cultural arts institution.

(cf: P.L.2023, c.197, s.5)

5. Section 7 of P.L.2023, c.197 (C.34:1B-389) is amended to read as follows:

7. a. The authority shall [award tax credits under the program through a competitive application process consisting of at least one award round each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website] conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may implement a competitive application process whereby the authority shall evaluate all applications submitted by a date certain as if all were submitted on that date.

b. [The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all

applications for cultural arts projects that satisfy the criteria set forth in sections 5 through 7 of P.L.2023, c.197 (C.34:1B-387 through 34:1B-389) in a given award round shall be ranked on the basis of a scoring system developed by the authority, in consultation with the New Jersey State Council on the Arts. Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that each applicant is required to attain to be eligible for a tax credit.**]** To receive a tax credit award, a cultural arts institution shall be required to meet a minimum score, as determined by the authority pursuant to this section.

c. The scoring system developed by the authority pursuant to **[**subsection b. of**]** this section shall assess applications for tax credits based on **[**competitive**]** criteria, which shall include, but shall not be limited to:

(1) the amount of tax credits requested by the cultural arts institution compared to the amount of tax credits required for the completion of the cultural arts project;

(2) how the cultural arts project will advance State, regional, and local goals concerning the development of arts and cultural facilities in underserved communities;

(3) the relationship of the cultural arts project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(4) the degree to which the cultural arts project enhances and promotes job creation and economic development;

(5) the extent of economic and related social distress in the municipality and the immediate area surrounding the cultural arts project, including whether the cultural arts project is located in a qualified incentive tract or other areas of the State identified from time to time by the authority in rules;

(6) the quality and number of new full-time jobs that will be created by the cultural arts institution; and

(7) if the cultural arts institution has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the cultural arts project is located.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting **[**competitive**]** the criteria required under the program when necessary to respond to conditions in the State.

e. Prior to the award of 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 cultural arts institution 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 cultural arts institution and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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. Provided that all parties are in compliance with this subsection, the authority shall allocate tax credits to cultural arts projects according to the cultural arts projects' scores and until either the available tax credits are exhausted or all cultural arts projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible cultural arts projects, a cultural arts project may be offered a partial tax credit valued at less than what is provided for in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386).

f. Applications that do not receive the minimum score established by the authority **[**for that award round**]** shall not receive further consideration for a tax credit by the authority **[**in that award round**]** for that application; however, a cultural arts institution may **[**revise or complete**]** submit a new application **[**to be submitted in a subsequent award round**]**.

g. **[**If a cultural arts institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

(cf: P.L.2023, c.197, s.7)

6. Section 8 of P.L.2023, c.197 (C.34:1B-390) is amended to read as follows:

8. a. Following approval and selection of an application pursuant to sections 6 and 7 of P.L.2023, c.197 (C.34:1B-388 and 34:1B-389), the authority shall enter into a tax credit agreement with the cultural arts institution.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the cultural arts institution and specify the duration of the eligibility period, which shall be no less than five years and shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the cultural arts project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the cultural arts institution provides executed financing commitments to the authority and a verification of the cultural arts institution's projected cash flow at the time of certification that the project is completed;

(2) specify that the authority or the State may purchase tax credits offered for sale by a cultural arts institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(3) at a minimum, require a cultural arts institution to provide oversight of the cultural arts project through ongoing reporting by the cultural arts institution to the authority;

(4) specify other measures through which the authority shall ensure oversight of outstanding tax credits, and, in the event that a cultural arts institution fails to meet its obligations under the tax credit agreement or any program requirement, including any representations made by the cultural arts institution during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, establish the right of the authority to reduce, rescind, or recapture tax credits in the authority's discretion; and

(5) at a minimum, require that the cultural arts institution adopt specific nondiscrimination policies for the operation of a cultural arts project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the cultural arts institution. As part of the authority's review of the annual reports required from each cultural arts institution, the authority shall confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the cultural arts institution is in substantial good standing with the respective department, or has entered into an agreement with such department that includes a practical corrective action plan for the cultural arts institution; and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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 tax credit agreement shall include a provision that

the cultural arts institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement, or the cultural arts institution is neither in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury nor has entered into a practical corrective action plan. The tax credit agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting requirement.

e. A cultural arts institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The cultural arts institution, or an authorized agent of the cultural arts institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

(cf: P.L.2023, c.197, s.8)

7. Section 9 of P.L.2023, c.197 (C.34:1B-391) is amended to read as follows:

9. a. Up to the limits established in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386), and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the cultural arts project, or upon any other event evidencing project completion as set forth in the tax credit agreement, a cultural arts institution of such approved cultural arts project shall be awarded a tax credit. No more than the amount of tax credits equal to the total credit amount awarded under the program divided by the duration of the eligibility period in years may be taken in any tax period.

b. A cultural arts institution that is awarded a tax credit under P.L.2023, c.197 (C.34:1B-383 et al.) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the cultural arts institution is aware of any condition, event, or act that would cause the cultural arts institution not to be in compliance with the tax credit agreement, the representations made to the authority during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, or the provisions of P.L.2023, c.197 (C.34:1B-383 et al.) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The cultural arts institution or an authorized agent of the cultural arts institution shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

c. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the cultural arts institution and the Director of the Division of Taxation in the

Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the cultural arts institution, that the cultural arts institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 10 of P.L.2023, c.197 (C.34:1B-392); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the cultural arts project, if that use is in accordance with rules and regulations adopted by the authority to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the cultural arts institution and the authority to provide the cultural arts institution with a tax credit transfer certificate, as described in section 10 of P.L.2023, c.197 (C.34:1B-392), or a tax credit certificate for the value awarded by the authority for that year that the cultural arts institution may use as provided in paragraph (1) of this subsection and in accordance with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.

(cf: P.L.2023, c.197, s.9)

8. Section 10 of P.L.2023, c.197 (C.34:1B-392) is amended to read as follows:

10. a. A cultural arts institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the cultural arts institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than $25,000, in the privilege period during which the cultural arts institution receives the tax credit transfer certificate from the director, to another person who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The cultural arts institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the cultural arts institution of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a cultural arts institution by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to P.L.2023, c.197 (C.34:1B-383 et al.) and any other terms and conditions that the director may prescribe; provided, however, that the holder of a tax credit certificate may transfer all or part of the tax credit amount, on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, **[**and the**]** in the

tax period in which it was issued, or in any of the next three successive tax periods. The transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. A transferee may carry forward **[**all or part of the tax**]** an unused credit **[**amount**]** for use in any of the next five successive tax periods, and the unused credit shall expire thereafter. Notwithstanding any provision of this section to the contrary, the amount of tax credits that may be claimed by the transferee in any tax period shall not exceed the total tax credit amount divided by the duration of the eligibility period in years.

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

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

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

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

(5) the consideration received by the transferor.

(cf: P.L.2023, c.197, s.10)

9. Section 11 of P.L.2023, c.197 (C.34:1B-393) is amended to read as follows:

11. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L.2023, c.197 (C.34:1B-383 et al.), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems

necessary to implement the provisions of P.L. , c. (pending before the Legislature as this bill), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(cf: P.L.2023, c.197, s.11)

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

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

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

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

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value

of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

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

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

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

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation

shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.), pursuant to subparagraph (k) of this paragraph [2], cultural arts institutions awarded a tax credit pursuant to the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), pursuant to subparagraph (l) of this paragraph[2], or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

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

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

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

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

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

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the

"New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.)[2]; and

(l) beginning in fiscal year 2026, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for cultural arts institutions awarded a tax credit pursuant to the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.)[2].

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

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

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

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

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

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

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

(vii) increased development proximate to mass transit facilities;

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

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the

same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

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

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

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

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

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

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

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

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

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

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321);**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

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

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

(cf: P.L.2020, c.156, s.89)**]**[1]

[1]11. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit

allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

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

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

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

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

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

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

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

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

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

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

12. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

1. a. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance that is approved, funded, authorized, administered or provided by the authority to any entity and is provided before, during or after completion of a project, including but not limited to, all authority financial assistance received by the entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

b. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any contract, for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting

and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work in connection with the ⟦"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the⟧ "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this subsection shall apply to any site preparation work performed 24 months prior to and during the incentive eligibility period of any project receiving tax credits under the ⟦"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the⟧ "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in which there is a continuity of ownership in the site of the redevelopment project, including work undertaken to fulfill any condition of receiving tax credits under the programs. Work that is subject to the requirements of this subsection shall include the performance of any contract for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work undertaken on a facility for operations which are necessary for the receipt of tax credits under the ⟦"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the⟧ "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the tax credit and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and subcontractors subject to the prevailing wage requirement set forth in this section shall be registered with the Department of Labor and Workforce Development pursuant to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the ⟦"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the⟧ "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81

of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its application that all construction contracts undertaken on any project in connection with an award under the programs comply with the prevailing wage requirements of this subsection. If at any time the authority determines that the developer made a material misrepresentation regarding compliance with the provisions of this subsection on the developer's application, the developer shall forfeit 35 percent of the tax credits allowed under the programs, and pay to the affected workers back wages in an amount that compensates the workers at the prevailing wage rate for the work performed.
(cf: P.L.2020, c.156, s.112)

[2]13. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to read as follows:

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

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

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

"Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center, and the Trenton-Mercer Airport, established pursuant to R.S.40:8-2 and the area within a one-mile radius of the outermost boundary of the Trenton-Mercer Airport.

"Board" means the Board of the New Jersey Economic Development Authority, established by 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).

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

"Collaborative workspace" means coworking, accelerator, incubator, or other shared working environments that promote

collaboration, interaction, socialization, and coordination among tenants through the clustering of multiple businesses or individuals. For this purpose, the collaborative workspace shall be the greater of: 2,500 of dedicated square feet or 10 percent of the total property on which the redevelopment project is situated. The collaborative workspace shall include a community manager, be focused on collaboration among the community members, and include regularly scheduled education events for the community members. The collaborative workspace shall also include a physical open space that supports the engagement of its community members.

"Commercial project" means a redevelopment project, which is predominantly commercial and, if located in a government-restricted municipality, contains 25,000 or more square feet, or if located in any other municipality, contains 50,000 or more square feet of office and retail space, industrial space, or film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, and may include a parking component. The term "commercial project" includes a redevelopment project comprised solely of a health care or health services center, which contains not less than 10,000 square feet devoted to health care or health services, and which may include a parking component. The term "commercial project" also includes an industrial space that is predominantly used for warehouse distribution or fulfillment centers if the eligible project cost includes at least $10,000,000 in environmental remediation costs.

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

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

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

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

"Eligibility period" means the period not to exceed 10 years, as specified in an incentive award agreement during which a developer may claim a tax credit under the program, as such period shall be determined by the authority pursuant to subsection b. of section 60 of P.L.2020, c.156 (C.34:1B-328), provided that a developer may elect a period not to exceed five years for a project located in a government-restricted municipality or for a special mission non-profit project.

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

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

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

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

"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. The term "government-restricted municipality" also includes any municipality that: has a population greater than 50,000 and less than 60,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 800,000 according to the latest federal decennial census, and has an MRI distress score of 62.1;

has a population greater than 70,000 and less than 100,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 515,000 and less than 525,000 according to the latest federal decennial census, and has an MRI distress score of 100; or contains the intersection of Interstate 280 and the Garden State Parkway, and corresponding land areas occupied by such highways under the ownership or control of the federal government of the United States or of this State within its municipal boundary, and has an MRI distress score of 55.5.

"Health care or health services center" means an establishment that consists of not less than 10,000 square feet devoted to health care or health services, where patients are admitted for or seek examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, and which is located in a municipality with an MRI distress score of at least 50, a distressed municipality, or a qualified incentive tract, or is located on land owned by the federal government of the United States on or before December 31, 2005.

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

"Incentive area" means an aviation district; a port district; an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated Center under the State Development and Redevelopment Plan; an area designated as a brownfield site pursuant to the "Brownfield and Contaminated Site Remediation Act," sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.); and an area of not less than 100 acres for which a licensed site remediation professional has certified environmental remediation costs, as defined in this section and in accordance with the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), in an amount not less than $10,000,000, provided that any portion of such area is located in an area that otherwise qualifies as an incentive area.

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

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

"Incubator facility" means a commercial property, which contains 5,000 or more square feet of office, laboratory, or industrial space, which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university,

and within which at least 75 percent of the gross leasable area is restricted for use by one or more technology startup companies.

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

"Labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment, hospitality 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, hospitality 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, hospitality establishment, or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third party that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail establishment, hospitality establishment, or distribution center employees in the State.

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

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

"Major rail station" means a railroad station that is located within a qualified incentive area and that provides to the public access to a

minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

"Minimum environmental and sustainability standards" means 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.

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

"MRI distress score" means a municipal revitalization index distress score, as documented in the 2023 Municipal Revitalization Index developed by the Department of Community Affairs.

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

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

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

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

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

"Project cost" or " eligible project cost" means the costs incurred in connection with a redevelopment project by a developer until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, except the cost of acquiring such lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs and the cost of infrastructure

improvements, including ancillary infrastructure projects. When 100 percent of the residential units constructed in a residential project are reserved for occupancy by low- and moderate-income households, the term "project cost" shall also include the developer fees paid before acquiring permanent financing, as well as the deferred developer fees approved pursuant to the rules established by the agency. In addition to the foregoing, the term "project cost" shall include, for a redevelopment project located in a government-restricted municipality, land costs in an amount not to exceed 20 percent of the eligible project cost. The fees associated with the application or administration of a grant under sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall not constitute a project cost.

"Project financing gap" means the part of the total project 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 project 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 on a non-recourse basis, 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 total project cost. 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: (i) the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or (ii) the value as determined by a current appraisal.

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

"Qualified incentive tract" means a population census tract having a poverty rate of 20 percent or more or 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.

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

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

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

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

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

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

"Special mission non-profit project" means a project located in a government-restricted municipality or in an enhanced area that: serves a special mission, as determined by the authority, to accomplish the public purpose of a non-profit that is a developer of or is affiliated with the project and includes no more than 100 units of 100 percent supportive housing units for tenants requiring special needs or social services, which social services may include licensed social workers, and no more than 25,000 square feet of commercial space for the provision of on-site social service programs that require a license from the Department of Children and Families as a licensed child care center. Special mission non-profit projects shall be exempt from the net benefit test requirement, affordable housing requirements, and the requirement to provide a market study as part of its application to the authority.

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

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

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

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

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

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force.[2]

(cf: P.L.2025, c.2, s.1)

[2]14. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to read as follows:

65. a. As used in this section, "transformative project" means a redevelopment project: that has a project financing gap; that has a total project cost of at least $150,000,000; that includes 200,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in a government-restricted municipality, that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, that includes

300,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in an enhanced area, or that includes 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for any other project; and, for a commercial project, that is of special economic importance as measured by the level of new jobs, new capital investment, opportunities to leverage leadership in a high-priority targeted industry, or other state priorities as determined by the authority pursuant to rules and regulations promulgated to implement this section. Notwithstanding the provisions of subsection b. of section 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located entirely on land designated by the Department of Environmental Protection as a brownfield development area pursuant to section 7 of P.L.2005, c.223 (C.58:10B-25.1), and the eligible project cost of the redevelopment project includes at least $15,000,000 in environmental remediation costs, the redevelopment project shall constitute a project of special economic importance. For applications submitted on or after the effective date of P.L. , c. (pending before the Legislature as this bill), the redevelopment project shall constitute a project of special economic importance if the redevelopment project is a health care or health services center that: is associated with, and located on, the same complex as a new or existing university, academic, or medical research center, institution, or facility; is an establishment that is associated with a National Cancer Institute Designated Comprehensive Cancer Center that is engaged in cancer research; is a transformative expansion of healthcare services by an academic medical and research center located in a distressed municipality that is adjacent to existing clinical facilities; or is a project located at a State-designated trauma center. A transformative project may be completed in phases, which phases may be determined by the authority based on factors such as written architectural plans and specifications completed before or during the physical work, certificates of occupancy, or financial and operational plans. The criteria developed by the authority shall include, but shall not be limited to:

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

(2) (a) for a residential project, the construction of 700 or more new residential units;

(b) for a mixed-use residential project containing fewer than 700 new residential units:

(i) the construction of 200 or more new residential units if the project is located in a government-restricted municipality, 300 or more new residential units if the project is located in an enhanced area, or 400 or more new residential units for all other mixed-use projects; and

(ii) the construction of 30,000 square feet or more of commercial space, which commercial space may include retail space; and

(c) (Deleted by amendment, P.L.2025, c.2)

(d) for a residential project, 20 percent of the new residential units shall be constructed for occupancy by low- and moderate-income households with affordability controls as adopted by the authority, in consultation with the agency, in accordance with paragraph (2) of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential project receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), shall be exempt from the affordability controls related to bedroom distribution; and

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

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

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

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

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

(3) Notwithstanding the provisions of section 57 of P.L.2020, c.156 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, a transformative project shall be completed, and the developer shall be issued a certificate of occupancy for the transformative project facilities by the applicable enforcing agency, within five years of executing the incentive award agreement, except that the authority may, in its discretion, extend this deadline by up to one additional year. For transformative projects completed in phases, the transformative project shall be completed, and the developer shall be issued certificates of occupancy for all phases of the transformative project facilities by the applicable enforcing agency, within 10 years of executing either the incentive award agreement or the first transformative phase agreement corresponding to the transformative project.

(4) Notwithstanding the provisions of sections 55 and 60 of P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each phase of a transformative project completed in phases shall have a separate eligibility period. After completing each phase, the developer shall

submit a certification that the phase is completed. If the authority approves the certification, the tax credit allowed to the developer shall be increased by the tax credit amount corresponding to that phase. Notwithstanding the different eligibility periods for each phase, all conditions and requirements applicable during an eligibility period pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335) shall apply to the entire transformative project until the end of the eligibility period for the last phase.

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

(6) A transformative project receiving an incentive award pursuant to this section, other than a project that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms or other infrastructure for film production, shall be located in an incentive area, a distressed municipality, a government-restricted municipality, or an enhanced area. A transformative project receiving an incentive award pursuant to this section that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production may be located anywhere in the State. The authority shall not consider an application for a transformative project unless the applicant submits with its application a letter evidencing support for the transformative project from the governing body of the municipality in which the transformative project is located.

c. The authority shall review the transformative project cost, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the transformative project will result in a net positive benefit to the State. In determining whether a transformative project will result in a net positive benefit to the State, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the developer's State or local tax liability. The determination made pursuant to this subsection shall be based on the potential tax liability of the developer without regard for potential tax losses if the developer were to locate in another state. The authority shall assess the cost of these reviews to the applicant. A developer

shall pay to the authority the full amount of the direct costs of an analysis concerning the developer's application for an incentive award that a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall evaluate the net economic benefits on a present value basis under which the requested tax credit allocation amount is discounted to present value at the same discount rate as the projected benefits from the implementation of the proposed transformative project for which an award of tax credits is being sought. Projects that are predominantly residential or that qualify as special mission non-profit projects shall be excluded from the calculation of the net benefit test required pursuant to this subsection.

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

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

f. Prior to allocating an incentive award to 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 the developer has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer shall certify that each contractor or subcontractor performing work at the transformative 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 the State; and (3) possesses 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 developer.

g. Notwithstanding the limitation on incentive awards set forth in subsection b. of section 61 and section 98 of P.L.2020, c.156 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may allow a developer of a transformative project a tax credit in an amount not to exceed the lesser of:

(1) (a) (i) 85 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality qualified as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.); or

(ii) 80 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality did not qualify as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.);

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

(c) 50 percent of the eligible project cost for any other transformative project;

(2) the total value of the project financing gap; or

(3) $400,000,000 except that for a transformative project that is developed in phases, the $400,000,000 limitation on incentive awards set forth in this paragraph shall apply to the total aggregate award for all phases of the transformative project.[2]

(cf: P.L.2025, c.2, s.8)

[2]15. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to read as follows:

6. a. (1) The combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013 shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), there shall be no monetary cap on the value of credits approved by the authority attributable to the program pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

(2) (Deleted by amendment, P.L.2013, c.161)

(3) (Deleted by amendment, P.L.2013, c.161)

(4) (Deleted by amendment, P.L.2013, c.161)

(5) (Deleted by amendment, P.L.2013, c.161)

b. (1) A business shall submit an application for tax credits prior to July 1, 2019. The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, 2019.

(2) (a) A business shall submit its documentation indicating that it has met the capital investment and employment requirements and all conditions of approvals specified in the incentive agreement for certification of its tax credit amount, to the authority's satisfaction, within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. If the authority accepts the documentation, the authority shall request that the Division of Taxation in the Department of the Treasury issue a tax credit based on the approved documentation to be used by the business during the

eligibility period. Except as provided in subparagraphs (b) and (c) of this paragraph, in no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.

(b) As of the effective date of P.L.2017, c.314, a business which applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149 (C.34:1B-242 et al.), shall submit its documentation to the authority no later than July 28, 2019, indicating that it has met the capital investment and employment requirements specified in the incentive agreement for certification of its tax credit amount.

(c) If the Governor declares an emergency, then the chief executive officer of the authority shall have the discretion to grant an extension for the duration of the emergency and the board of the authority, upon recommendation of the chief executive officer, may grant two additional six-month extensions; provided that (i) the extensions are due to the economic disruption caused by the emergency; (ii) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (iii) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (iv) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

(3) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(4) A business seeking a credit for a mega project shall apply for the credit within four years after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

c. (1) In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount may be taken by the tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax periods and shall expire thereafter. The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time after the date of issuance for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. In the case of a tax certificate received after the end of the tax period for which the tax certificate was issued, whether by transfer or original issuance, a tax certificate holder or transferee shall not be required to amend the tax return for the tax period for which the tax certificate was issued or any successive tax period if the credit is first applied in the tax period in which it was issued or in a succeeding tax period, as authorized in subsection k. of this section, and subject to the carry-forward provision in this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total

credit amount, divided by the duration of the eligibility period, in years, may be taken in any tax period.

A business may elect to suspend its obligations for the 2020, 2021, 2022, 2023, or 2024 tax period, or any combination thereof, **[**due to the COVID-19 pandemic,**]** provided that the business shall make such election in writing to the authority **[**before the issuance of the tax credit for the corresponding tax year**]** no later than December 31, 2025 and such suspension shall extend the term of the eligibility period by a corresponding amount of time. The authority shall amend the incentive agreement, and the business shall execute the amended incentive agreement within the time period provided by the authority. The amended incentive agreement shall provide that the failure to submit the annual report due to the suspension shall not be a forfeiture or an uncertified tax period.

(2) Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the Director of the Division of Taxation in the Department of the Treasury accompanied by any additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(4) In order to respond to the profoundly negative impact of the COVID-19 pandemic on the State's economy and finances, the authority may request a tax certificate holder, at the tax certificate holder's discretion, to defer the application of a credit amount allowed pursuant to this section to a later tax period. Upon request, the authority and the tax certificate holder shall negotiate the terms of the deferral, which shall hold the certificate holder harmless, which will be made in the incentive agreement or as an addendum to the incentive agreement.

d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by the incentive agreement has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located

within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 80 percent of the number of jobs specified in the incentive agreement.

(3) (a) If the qualified business facility is sold by the owner in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of the business shall remain unaffected.

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease the facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease the facility; (ii) the ownership or leasing of the facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease the facility. The ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. The members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

(4) (a) For a project located within a Garden State Growth Zone, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an increased base credit amount for that tax period and each subsequent tax period, for each additional full-time employee added above the number of full-time employees specified in the incentive agreement, until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which

time the tax credit amount will be adjusted accordingly pursuant to this section.

(b) For a project located within a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which qualifies for a tax credit pursuant to subsubparagraph (ii) of subparagraphs (a) through (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the total tax credit amount per full-time job by using the certified capital investment of the project allowable under the applicable subsubparagraph and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount shall be adjusted accordingly pursuant to this section.

e. The authority shall not enter into an incentive agreement with a business that has previously received incentives pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other program administered by the authority unless:

(1) the business has satisfied all of its obligations underlying the previous award of incentives or is compliant with section 4 of P.L.2011, c.149 (C.34:1B-245); or

(2) the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

f. A business which has already applied for a tax credit incentive award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the tax credits, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

g. A business that has entered into an incentive agreement may request before December 31, 2024 to terminate the incentive agreement, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2024, due to the COVID-19 public health emergency; provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due, directly or indirectly, to the public health emergency and describing the impact of the public health emergency on the business. All credits for the tax period in which the termination occurs and all subsequent tax periods shall be forfeited, provided however that any credits of the business shall remain unaffected. A termination agreement executed by the authority and business shall not be amended.

h. A business that has entered into an incentive agreement may request, before December 31, 2024, to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification of the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period, provided that the business maintains the minimum number of new or retained full-time jobs required to be eligible pursuant to subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in employment shall first apply to the number of new full-time employees, and then shall apply to the number of retained full-time employees.

The authority shall calculate a new tax credit total amount for the 2020 tax period and the remainder of the eligibility period based on the reduced employment and shall amend the incentive agreement to reflect the recalculated award amount. In no event shall the modification result in an increase in employment or tax credit amount.

i. Following the termination of the public health emergency declared by the Governor pursuant to Executive Order No. 103 of 2020, as extended, a business that has entered into an incentive agreement may elect, before March 31, 2024, to waive, for the period beginning on July 1, 2022 and ending on March 31, 2024, the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility; provided, however, that a business that makes such an election shall satisfy the following criteria:

(1) any full-time employee employed by the business shall spend at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period and, if elected by the business, the 2024 tax period through March 31, 2024; and

(2) following the receipt by the business of its tax credit certificate or tax credit transfer certificate for the 2022 tax period, the business shall make a payment of an amount equal to five percent of the amount of tax credit the business receives for the 2022 tax period through March 31, 2024, which payment shall be made to the authority, and

which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within the municipality in which the qualified business facility is located, as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

j. Notwithstanding the provisions of section 2 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation to the contrary, beginning on April 1, 2024, and for all subsequent tax periods, a business located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337) that has entered into an incentive agreement with the authority may elect to waive the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility, provided, however, that a business that makes this election shall satisfy the following criteria:

(1) for a qualified business facility located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time employee employed by the business shall spend at least 40 percent of the employee's time at the qualified business facility during the tax period;

(2) the business shall extend by two years the term of its commitment period beyond the time set forth in the incentive agreement; and

(3) at the time the business submits its tax credit certificate certification for the tax period, the business shall make a non-refundable payment of an amount equal to 10 percent of the amount of the maximum annual tax credit that the business is eligible to receive for the tax period, which payment shall be made to the authority and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

k. Notwithstanding the provisions of any law to the contrary, the credit amount may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was

issued, or in any tax period during the commitment period set forth in the incentive agreement. The tax certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without being required to amend the tax return for the taxpayer for which the credit was issued, subject to the provisions of this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

l. Notwithstanding the provisions of subsection b. of this section or any law or regulation to the contrary, a business that has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134 may request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement, provided the business certifies that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period.[2]

(cf: P.L.2024, c.40, s.4)

[2]**[**13.**]** 16.[2] Sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) are repealed.

[2]**[**14.**]** 17.[2] This act shall take effect immediately.

Modifies provisions of Cultural Arts Incentives Program, New Jersey Aspire Program, and Grow New Jersey Program; eliminates Community-Anchored Development Program.

CHAPTER 127

AN ACT concerning State economic development policy, amending various parts of the statutory law, and repealing sections 43 through 53 of P.L.2020, c.156.

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

1. Section 2 of P.L.2023, c.197 (C.34:1B-384) is amended to read as follows:

C.34:1B-384 Findings, declarations.

2. The Legislature finds and declares that:

a. The New Jersey Economic Development Authority can effectively utilize cultural arts institution facilities as catalysts for broad economic development in targeted communities. Under the legislation, facilities engaged in the cultural, educational, or artistic enrichment of the people of this State are provided with the opportunity to facilitate targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the ability of cultural arts institution facilities to attract visitors and businesses to the State by leveraging the incalculable economic and cultural benefits of building and supporting world class cultural arts institutions.

b. Projects involving the development or rehabilitation of a cultural arts institution facility are inherently beneficial to the State because they provide vital contributions to the communities in which they are located, and together the arts community provides immeasurable economic and cultural benefits to the State.

c. (Deleted by amendment, P.L.2025, c.127)

d. The Legislature declares that two principal objectives underscore the policy approach of this legislation: first, that providing spaces for arts and culture to flourish will result in thriving communities; and second, the State must help to provide these spaces through an incentives program that better reflects the economics of arts and culture facilities and that the current suite of real estate programs cannot succeed in this endeavor.

2. Section 3 of P.L.2023, c.197 (C.34:1B-385) is amended to read as follows:

C.34:1B-385 Definitions.

3. As used in P.L.2023, c.197 (C.34:1B-383 et al.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by a cultural arts institution. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A cultural arts institution may establish by clear and convincing evidence, as determined by the authority, that control exists in situations involving lesser percentages of ownership if the cultural arts institution shall have control, at a minimum, of all aspects of compliance with this program. An affiliate of a cultural arts institution may contribute to the project cost and may satisfy the requirement for site control during construction and the eligibility period, but in no event shall the tax credit certificate be issued to any affiliate.

"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 by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Cultural arts institution" means a governmental entity or nonprofit or governmental economic or community development entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, operating on a not-for-profit basis, and having a mission of, or experience in, cultural, educational, or artistic enrichment of the people of this State. A "cultural arts institution" shall include a for-profit business seeking a tax credit for a cultural arts institution facility open to the public provided that the cultural arts institution facility is receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). A “cultural arts institution” shall include any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts. A “cultural arts institution” shall also include a developer that has a partnership agreement with the National Park Service.

"Cultural arts institution facility" means an existing or proposed facility within this State, operated and maintained by a cultural arts institution or the National Park Service. A "cultural arts institution facility" includes, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, war memorial or museum, or any related facility that is principally for the support and benefit of any of the foregoing.

"Cultural arts project" means a capital project for the construction or improvement of a cultural arts institution facility that is located in the State for which a cultural arts institution is to be awarded tax credits by the authority under the program pursuant to a tax credit agreement, provided that the project for which the tax credits are awarded will result in a capital investment of at least $5,000,000.

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

"Eligibility period" means the period during which a cultural arts institution may claim, sell, transfer, or otherwise use a tax credit under the program, beginning with the tax period in which the authority accepts certification of the cultural arts institution that it has met the capital investment requirements of the program and extending thereafter for a term of at least five years.

"Eligible position" means a full-time position in an entity in this State which the entity has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156, 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.

"New full-time job" means an eligible position created by a cultural arts institution at a cultural arts project that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the cultural arts institution.

"Program" means the Cultural Arts Incentives Program established pursuant to section 4 of P.L.2023, c.197 (C.34:1B-386).

"Project cost" means the costs incurred in connection with a cultural arts project by a cultural arts institution until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs, and the cost of infrastructure improvements, including ancillary infrastructure projects. The fees associated with the application or administration of tax credits under P.L.2023, c.197 (C.34:1B-383 et al.) shall not constitute a project cost.

"Project financing gap" means the part of the total project 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 capital contributed by the cultural arts institution, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans; provided, however, that for a cultural arts project located in a government-restricted municipality, the capital contributed by the cultural arts institution shall not be less than 10 percent of the total project cost.

"Qualified incentive tract" means a population census tract having a poverty rate of 20 percent or more or 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.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 8 of P.L.2023, c.197 (C.34:1B-390) between the authority and a cultural arts institution.

"Work First New Jersey program" means the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

3. Section 4 of P.L.2023, c.197 (C.34:1B-386) is amended to read as follows:

C.34:1B-386 "Cultural Arts Incentives Program" established, New Jersey Economic Development Authority.

4. a. The Cultural Arts Incentives Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The board shall certify an eligible cultural arts institution based on the requirements of section 5 of P.L.2023, c.197 (C.34:1B-387), and may approve the award of a tax credit to a cultural arts institution pursuant to the provisions of P.L.2023, c.197 (C.34:1B-383 et al.). The value of all tax credits approved by the authority to cultural arts institutions under the program shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). Any tax credit awarded under the program may be utilized by a cultural arts institution for the same project in conjunction with a tax credit award made pursuant to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); provided, however, that any tax credit awarded under the program shall not be considered to be developer contributed capital for the purposes of calculating the project financing gap for an incentive award under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

b. (1) The authority shall administer the program to incentivize the establishment of cultural arts projects by a cultural arts institution independently or in collaboration with one

or more governmental entities. A cultural arts project involving the development or rehabilitation of a cultural arts institution facility shall be eligible for a tax credit award in an amount not to exceed 100 percent of eligible project costs. The value of tax credits approved by the authority under the program for a cultural arts project shall not exceed $75,000,000 per cultural arts project.

(2) (a) A cultural arts institution shall sell and transfer the tax credits awarded under the program, or adopt a plan to use such tax credits in order to finance the completion of the cultural arts project. A cultural arts institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an equity investment in, or secure other financial support for, the cultural arts project that will permit the cultural arts institution to develop the cultural arts project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the cultural arts project. The authority shall evaluate each proposed cultural arts project to determine the likelihood of the project's success. A cultural arts institution shall submit to the authority an independent market study showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful. The authority may procure third party consultants to determine a project's likelihood of success.

(b) Consistent with an applicable tax credit agreement, a tax credit awarded to a cultural arts institution may be applied against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

4. Section 5 of P.L.2023, c.197 (C.34:1B-387) is amended to read as follows:

C.34:1B-387 Cultural arts institution, tax credit eligibility.

5. a. A cultural arts institution shall be eligible to receive a tax credit under the program only if the cultural arts institution is eligible pursuant to subsection b. of this section and submits a program application to the authority that results in completion of a cultural arts project.

b. At the time of application, a cultural arts institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed cultural arts project will result in a capital investment of at least $5,000,000, which may include, for a project for which an applicant has commenced construction before the submission of an application, costs incurred before the date of application, provided that such costs would have otherwise qualified as project costs;

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete the cultural arts project and then, unless the cultural arts institution facility is to be operated by the National Park Service, operate the cultural arts institution facility;

(3) that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless:

(a) the authority determines that the cultural arts project would not be completed without an award of tax credits under the program; or

(b) the construction activities are limited to general maintenance, demolition, environmental assessment, environmental investigation, and environmental remediation;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the cultural arts institution to finance the establishment of the cultural arts project;

(5) the total aggregate value of the tax credits for the entire eligibility period that is necessary in order for the cultural arts institution to finance the establishment of the cultural arts project;

(6) that the cultural arts project shall comply with the standards established by the authority through regulation based on 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 in order to reduce environmental degradation and encourage long-term cost reduction;

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

(8) a description of the significant economic, social, planning, employment, and other benefits that would accrue to the State, county, or municipality from the cultural arts project;

(9) that during the eligibility period, each worker employed to perform construction work and building services work at the cultural arts 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.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the cultural arts project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to construction work and building services work at the entire facility. In the event the cultural arts project constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(10) that, unless the cultural arts institution facility is to be operated by the National Park Service, the cultural arts institution shall either:

(a) provide support and services to Work First New Jersey program recipients during the eligibility period; or

(b) have provided support and services to Work First New Jersey program recipients on or after December 21, 2023;

(11) that the timing of the award of tax credits under the program shall allow for the successful completion and operation of the cultural arts project demonstrated through an independent market study submitted by the applicant showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful; and that the cultural arts institution has a strong prior track record of success or an independent analysis demonstrates that a newly formed cultural arts institution will be successful;

(12) a project financing gap exists, or the authority determines that the cultural arts project will generate a below market rate of return. The authority shall evaluate past and projected fundraising efforts of the cultural arts institution to determine whether a project financing gap exists;

(13) that, unless the cultural arts institution facility is to be operated by the National Park Service, the cultural arts institution will have ownership of, or lease space in, the cultural arts institution facility and operate or hold an operating agreement for at least the eligibility period; and

(14) that the cultural arts institution will have at least 20 percent equity in the cultural arts project, which equity interest may include amounts contributed through government grants, not including economic subsidies provided by the authority, received by the cultural arts institution; provided, however, for a cultural arts project located in a government-restricted municipality, the equity required shall not be less than 10 percent.

c. Prior to the board considering an application submitted by a cultural arts institution, 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 cultural arts institution 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. The cultural arts institution shall certify that any contractors or subcontractors that will perform work at the cultural arts 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 authority may also contract with an independent third party to perform a background check on a cultural arts institution.

5. Section 7 of P.L.2023, c.197 (C.34:1B-389) is amended to read as follows:

C.34:1B-389 New Jersey Economic Development Authority, awarding tax credits, competitive application process, at least one award round each year.

7. a. The authority shall conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may implement a competitive application process whereby the authority shall evaluate all applications submitted by a date certain as if all were submitted on that date.

b. To receive a tax credit award, a cultural arts institution shall be required to meet a minimum score, as determined by the authority pursuant to this section.

c. The scoring system developed by the authority pursuant to this section shall assess applications for tax credits based on criteria, which shall include, but shall not be limited to:

(1) the amount of tax credits requested by the cultural arts institution compared to the amount of tax credits required for the completion of the cultural arts project;

(2) how the cultural arts project will advance State, regional, and local goals concerning the development of arts and cultural facilities in underserved communities;

(3) the relationship of the cultural arts project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(4) the degree to which the cultural arts project enhances and promotes job creation and economic development;

(5) the extent of economic and related social distress in the municipality and the immediate area surrounding the cultural arts project, including whether the cultural arts project is located in a qualified incentive tract or other areas of the State identified from time to time by the authority in rules;

(6) the quality and number of new full-time jobs that will be created by the cultural arts institution; and

(7) if the cultural arts institution has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the cultural arts project is located.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting the criteria required under the program when necessary to respond to conditions in the State.

e. Prior to the award of 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 cultural arts institution 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 cultural arts institution and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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. Provided that all parties are in compliance with this subsection, the authority shall allocate tax credits to cultural arts projects according to the cultural arts projects' scores and until either the available tax credits are exhausted or all cultural arts projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible cultural arts projects, a cultural arts project may be offered a partial tax credit valued at less than what is provided for in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386).

f. Applications that do not receive the minimum score established by the authority shall not receive further consideration for a tax credit by the authority for that application; however, a cultural arts institution may submit a new application.

g. (Deleted by amendment, P.L.2025, c.127)

6. Section 8 of P.L.2023, c.197 (C.34:1B-390) is amended to read as follows:

C.34:1B-390 New Jersey Economic Development Authority, cultural arts institution, tax credit agreement.

8. a. Following approval and selection of an application pursuant to sections 6 and 7 of P.L.2023, c.197 (C.34:1B-388 and 34:1B-389), the authority shall enter into a tax credit agreement with the cultural arts institution.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the cultural arts institution and specify the duration of the eligibility period, which shall be no less than five years and shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the cultural arts project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the cultural arts institution provides executed financing commitments to the authority and a verification of the cultural arts institution's projected cash flow at the time of certification that the project is completed;

(2) specify that the authority or the State may purchase tax credits offered for sale by a cultural arts institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(3) at a minimum, require a cultural arts institution to provide oversight of the cultural arts project through ongoing reporting by the cultural arts institution to the authority;

(4) specify other measures through which the authority shall ensure oversight of outstanding tax credits and, in the event that a cultural arts institution fails to meet its obligations under the tax credit agreement or any program requirement, including any representations made by the

cultural arts institution during the application process, establish the right of the authority to reduce, rescind, or recapture tax credits in the authority's discretion; and

(5) at a minimum, require that the cultural arts institution adopt specific nondiscrimination policies for the operation of a cultural arts project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the cultural arts institution. As part of the authority's review of the annual reports required from each cultural arts institution, the authority shall confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the cultural arts institution is in substantial good standing with the respective department, or has entered into an agreement with such department that includes a practical corrective action plan for the cultural arts institution; and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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 tax credit agreement shall include a provision that the cultural arts institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement, or the cultural arts institution is neither in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury nor has entered into a practical corrective action plan. The tax credit agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting requirement.

e. A cultural arts institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The cultural arts institution, or an authorized agent of the cultural arts institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

7. Section 9 of P.L.2023, c.197 (C.34:1B-391) is amended to read as follows:

C.34:1B-391 Cultural arts institution, approved cultural arts project, tax credit, awarded.

9. a. Up to the limits established in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386), and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the cultural arts project, or upon any other event evidencing project completion as set forth in the tax credit agreement, a cultural arts institution of such approved cultural arts project shall be awarded a tax credit. No more than the amount of tax credits equal to the total credit amount awarded under the program divided by the duration of the eligibility period in years may be taken in any tax period.

b. A cultural arts institution that is awarded a tax credit under P.L.2023, c.197 (C.34:1B-383 et al.) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the cultural arts institution is aware of any condition, event, or act that would cause the cultural arts institution not to be in compliance with the tax credit agreement, the representations made to the authority during the application process, or the provisions of P.L.2023, c.197 (C.34:1B-383 et al.) and any additional reporting requirements contained in the tax credit agreement or

tax credit certificate. The cultural arts institution or an authorized agent of the cultural arts institution shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

c. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the cultural arts institution and the Director of the Division of Taxation in the Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the cultural arts institution, that the cultural arts institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 10 of P.L.2023, c.197 (C.34:1B-392); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the cultural arts project, if that use is in accordance with rules and regulations adopted by the authority to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the cultural arts institution and the authority to provide the cultural arts institution with a tax credit transfer certificate, as described in section 10 of P.L.2023, c.197 (C.34:1B-392), or a tax credit certificate for the value awarded by the authority for that year that the cultural arts institution may use as provided in paragraph (1) of this subsection and in accordance with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.

8. Section 10 of P.L.2023, c.197 (C.34:1B-392) is amended to read as follows:

C.34:1B-392 Cultural arts institution, tax credit transfer certificate, selling, assigning.

10. a. A cultural arts institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the cultural arts institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than $25,000, in the privilege period during which the cultural arts institution receives the tax credit transfer certificate from the director, to another person who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The cultural arts institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the cultural arts institution of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a cultural arts institution by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to P.L.2023, c.197 (C.34:1B-383 et al.) and any other terms and conditions that the director may prescribe, provided, however, that the holder of a tax credit certificate may transfer all or part of the tax credit amount, on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. The transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. A transferee may carry forward an unused credit for use in any of the next five successive tax periods, and the unused credit shall expire thereafter. Notwithstanding any provision of this section to the contrary,

the amount of tax credits that may be claimed by the transferee in any tax period shall not exceed the total tax credit amount divided by the duration of the eligibility period in years.

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

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

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

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

(5) the consideration received by the transferor.

9. Section 11 of P.L.2023, c.197 (C.34:1B-393) is amended to read as follows:

C.34:1B-393 Rules, regulations.

11. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L.2023, c.197 (C.34:1B-383 et al.), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L.2025, c.127, which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

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

336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.); P.L.2025, c.111 (C.55:14K-106 et al.); and the "Next New Jersey Manufacturing Program Act," P.L.2025, c.123 (C.34:1B-403 et al.) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.), P.L.2025, c.111 (C.55:14K-106 et al.); and the “Next New Jersey Manufacturing Program Act,” P.L.2025, c.123 (34:1B-403 et al.) shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

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

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

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

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

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

(e) for tax credits awarded under the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits

awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.), pursuant to subparagraph (k) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Manufacturing Program Act," P.L.2025, c.123 (C.34:1B-403 et al.), pursuant to subparagraph (l) of this paragraph, cultural arts institutions awarded a tax credit pursuant to the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), pursuant to subparagraph (l) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

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

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

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

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

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

(l) once the tax credits allocated for competitive auctions conducted pursuant to sections 3 through 7 of P.L.2025, c.111 (C.55:14K-106 through 55:14K-110) pursuant to subsubparagraph (ii) of subparagraph (b) of this paragraph are exhausted, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, the sum of $300,000,000 shall be made available to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L.2025, c.111 (C.55:14K-106 through 55:14K-110). The amount made available pursuant to this subparagraph shall be allocated in annual installments, each of which is not to exceed the cap set forth in paragraph (3) of subsection a. of section 4 of P.L.2025, c.111 (C.55:14K-107), as needed to conduct auctions pursuant to that section. All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L.2025, c.111 (C.55:14K-107). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject

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

(m) beginning in fiscal year 2026, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the “Next New Jersey Manufacturing Program Act,” P.L.2025, c.123 (C.34:1B-403 et al.) and an amount not to exceed $500,000,000 shall be made available for cultural arts institutions awarded a tax credit pursuant to the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.34:1B-383 et al.). In accordance with the provisions of subsection g. of section 5 of P.L.2025, c.123 (C.34:1B-407), $100,000,000 of the tax credits made available to the “Next New Jersey Manufacturing Program Act,” P.L.2025, c.123 (C.34:1B-403 et al.) pursuant to this subparagraph shall be reserved exclusively for eligible businesses that are clean energy product manufacturers.

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

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

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

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

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

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

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

(vii) increased development proximate to mass transit facilities;

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

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

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

Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

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

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

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

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

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

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

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

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

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

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

or the holder of such certificate occurred at least one year prior to the date of application to the director; or

(4) the “Garden State Film and Digital Media Jobs Act,” P.L.2018, c.56 (C.54:10A-5.39b et al.), for which the director shall pay an amount equal to 95 percent of the credit amount for any original application approved by the authority on or after January 1, 2026, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the taxpayer, which taxpayer is a New Jersey studio partner or the holder of such certificate originally issued to a New Jersey studio partner, occurred at least one year prior to the date of application to the director and provided that the director shall purchase such certificates valued at no more than a cumulative amount of $80,000,000 in State fiscal year 2026, $160,000,000 in State fiscal year 2027, $240,000,000 in State fiscal year 2028, and $200,000,000 in each State fiscal year thereafter, subject to the conditions in this paragraph. If an application to the director for the purchase of tax credits otherwise qualifies pursuant to this paragraph, but the value of tax credits for which the director receives applications exceeds the maximum cumulative amount for the State fiscal year in which the application is made, the director shall purchase the remaining tax credits in the State fiscal year next following the State fiscal year in which the application is made, provided that the director shall not purchase a cumulative amount above the maximum cumulative amount for the respective State fiscal year. No payments shall be made pursuant to this paragraph unless the following conditions are met: full funding is provided for the fiscal year to satisfy the requirement in Article VIII, Section IV, paragraph 1 of the New Jersey Constitution that the Legislature provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of children in the State between the ages of five and 18 years; full payment of the contributions required by law for the fiscal year is made to the State-administered retirement systems; and the annual appropriations act for the State fiscal year maintains a budgetary surplus of no less than 12 percent of total appropriations from the General Fund and the Property Tax Relief Fund.

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

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

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

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

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

(5) (Deleted by amendment, P.L.2025, c.127)

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

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

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

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

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

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

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

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

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

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

12. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

C.34:1B-5.1 Rules, regulations.

1. a. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate, or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption, or other financial assistance that is approved, funded, authorized, administered, or provided by the authority to any entity and is provided before, during, or after completion of a project, including, but not limited to, all authority financial assistance received by the entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

b. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any contract, for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work in connection with the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this subsection shall apply to any site preparation work performed 24 months prior to and during the incentive eligibility period of any project receiving tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in which there is a continuity of ownership in the site of the redevelopment project, including work undertaken to fulfill any condition of receiving tax credits under the programs. Work that is subject to the requirements of this subsection shall include the performance of any contract for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance

work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work undertaken on a facility for operations which are necessary for the receipt of tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the tax credit and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and subcontractors subject to the prevailing wage requirement set forth in this section shall be registered with the Department of Labor and Workforce Development pursuant to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its application that all construction contracts undertaken on any project in connection with an award under the programs comply with the prevailing wage requirements of this subsection. If at any time the authority determines that the developer made a material misrepresentation regarding compliance with the provisions of this subsection on the developer's application, the developer shall forfeit 35 percent of the tax credits allowed under the programs, and pay to the affected workers back wages in an amount that compensates the workers at the prevailing wage rate for the work performed.

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

C.34:1B-323 Definitions.

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

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

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

"Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center, and the Trenton-Mercer Airport, established pursuant to R.S.40:8-2 and the area within a one-mile radius of the outermost boundary of the Trenton-Mercer Airport.

"Board" means the Board of the New Jersey Economic Development Authority, established by 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).

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

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

"Commercial project" means a redevelopment project, which is predominantly commercial and, if located in a government-restricted municipality, contains 25,000 or more square feet, or if located in any other municipality, contains 50,000 or more square feet of office and retail space, industrial space, or film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, and may include a parking component. The term "commercial project" includes a redevelopment project comprised solely of a health care or health services center, which contains not less than 10,000 square feet devoted to health care or health services, and which may include a parking component. The term "commercial project" also includes an industrial space that is predominantly used for warehouse distribution or fulfillment centers if the eligible project cost includes at least $10,000,000 in environmental remediation costs.

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

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

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

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

"Eligibility period" means the period not to exceed 10 years, as specified in an incentive award agreement during which a developer may claim a tax credit under the program, as such period shall be determined by the authority pursuant to subsection b. of section 60 of P.L.2020, c.156 (C.34:1B-328), provided that a developer may elect a period not to exceed five years for a project located in a government-restricted municipality or for a special mission non-profit project.

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

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

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

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

"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. The term "government-restricted municipality" also includes any municipality that: has a population greater than 50,000 and less than 60,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 800,000 according to the latest federal decennial census, and has an MRI distress score of 62.1; has a population greater than 70,000 and less than 100,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 515,000 and less than 525,000 according to the latest federal decennial census, and has an MRI distress score of 100; or contains the intersection of Interstate 280 and the Garden State Parkway, and corresponding land areas occupied by such highways under the ownership or control of the federal government of the United States or of this State within its municipal boundary, and has an MRI distress score of 55.5.

"Health care or health services center" means an establishment that consists of not less than 10,000 square feet devoted to health care or health services, where patients are admitted for or seek examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners and which is located in a municipality with an MRI distress score of at least 50, a distressed municipality, or a qualified incentive tract or is located on land owned by the federal government of the United States on or before December 31, 2005.

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

"Incentive area" means an aviation district; a port district; an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated Center under the State Development and Redevelopment Plan; an area designated as a brownfield site pursuant to the "Brownfield and Contaminated Site Remediation Act," sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.); and an area of not less than 100 acres for which a licensed site remediation professional has certified environmental remediation costs, as

defined in this section and in accordance with the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), in an amount not less than $10,000,000, provided that any portion of such area is located in an area that otherwise qualifies as an incentive area.

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

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

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

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

"Labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment, hospitality 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, hospitality 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, hospitality establishment, or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral third party that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail establishment, hospitality establishment, or distribution center employees in the State.

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

"Major cultural institution" means a public or nonprofit institution, not including an institution of higher education, within this State that engages in the cultural, intellectual,

scientific, environmental, educational, or artistic enrichment of the people of this State, and which institution is designated by the board as a major cultural institution.

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

"Minimum environmental and sustainability standards" means 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.

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

"MRI distress score" means a municipal revitalization index distress score, as documented in the 2023 Municipal Revitalization Index developed by the Department of Community Affairs.

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

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

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

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

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

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

"Project financing gap" means the part of the total project 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 project 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 on a non-recourse basis, 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 total project cost. 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: (i) the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or (ii) the value as determined by a current appraisal.

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

"Qualified incentive tract" means a population census tract having a poverty rate of 20 percent or more or 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.

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

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

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

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

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

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

"Special mission non-profit project" means a project located in a government-restricted municipality or in an enhanced area that: serves a special mission, as determined by the authority, to accomplish the public purpose of a non-profit that is a developer of or is affiliated with the project and includes no more than 100 units of 100 percent supportive housing units for tenants requiring special needs or social services, which social services may include licensed social workers, and no more than 25,000 square feet of commercial space for the provision of on-site social service programs that require a license from the Department of Children and Families as a licensed child care center. Special mission non-profit projects shall be exempt from the net benefit test requirement, affordable housing requirements, and the requirement to provide a market study as part of its application to the authority.

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

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

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

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

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

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force.

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

C.34:1B-333 "Transformative project."

65. a. As used in this section, "transformative project" means a redevelopment project: that has a project financing gap; that has a total project cost of at least $150,000,000; that includes 200,000 or more square feet of new or substantially renovated industrial, commercial, or

residential space for a project located in a government-restricted municipality, that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, that includes 300,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in an enhanced area, or that includes 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for any other project; and, for a commercial project, that is of special economic importance as measured by the level of new jobs, new capital investment, opportunities to leverage leadership in a high-priority targeted industry, or other state priorities as determined by the authority pursuant to rules and regulations promulgated to implement this section. Notwithstanding the provisions of subsection b. of section 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located entirely on land designated by the Department of Environmental Protection as a brownfield development area pursuant to section 7 of P.L.2005, c.223 (C.58:10B-25.1), and the eligible project cost of the redevelopment project includes at least $15,000,000 in environmental remediation costs, the redevelopment project shall constitute a project of special economic importance. For applications submitted on or after the effective date of P.L.2025, c.127, the redevelopment project shall constitute a project of special economic importance if the redevelopment project is a health care or health services center that: is associated with, and located on, the same complex as a new or existing university, academic, or medical research center, institution, or facility; is an establishment that is associated with a National Cancer Institute Designated Comprehensive Cancer Center that is engaged in cancer research; is a transformative expansion of healthcare services by an academic medical and research center located in a distressed municipality that is adjacent to existing clinical facilities; or is a project located at a State-designated trauma center. A transformative project may be completed in phases, which phases may be determined by the authority based on factors such as written architectural plans and specifications completed before or during the physical work, certificates of occupancy, or financial and operational plans. The criteria developed by the authority shall include, but shall not be limited to:

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

(2) (a) for a residential project, the construction of 700 or more new residential units;

(b) for a mixed-use residential project containing fewer than 700 new residential units:

(i) the construction of 200 or more new residential units if the project is located in a government-restricted municipality, 300 or more new residential units if the project is located in an enhanced area, or 400 or more new residential units for all other mixed-use projects; and

(ii) the construction of 30,000 square feet or more of commercial space, which commercial space may include retail space; and

(c) (Deleted by amendment, P.L.2025, c.2)

(d) for a residential project, 20 percent of the new residential units shall be constructed for occupancy by low- and moderate-income households with affordability controls as adopted by the authority, in consultation with the agency, in accordance with paragraph (2) of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential project receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), shall be exempt from the affordability controls related to bedroom distribution; and

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

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

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

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

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

(3) Notwithstanding the provisions of section 57 of P.L.2020, c.156 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, a transformative project shall be completed, and the developer shall be issued a certificate of occupancy for the transformative project facilities by the applicable enforcing agency, within five years of executing the incentive award agreement, except that the authority may, in its discretion, extend this deadline by up to one additional year. For transformative projects completed in phases, the transformative project shall be completed, and the developer shall be issued certificates of occupancy for all phases of the transformative project facilities by the applicable enforcing agency, within 10 years of executing either the incentive award agreement or the first transformative phase agreement corresponding to the transformative project.

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

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

(6) A transformative project receiving an incentive award pursuant to this section, other than a project that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms or other infrastructure for film production, shall be located in an incentive area, a distressed municipality, a government-restricted municipality, or an enhanced area. A transformative project receiving an incentive award pursuant to this section that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production may be located anywhere in the State. The authority shall

not consider an application for a transformative project unless the applicant submits with its application a letter evidencing support for the transformative project from the governing body of the municipality in which the transformative project is located.

c. The authority shall review the transformative project cost, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the transformative project will result in a net positive benefit to the State. In determining whether a transformative project will result in a net positive benefit to the State, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the developer's State or local tax liability. The determination made pursuant to this subsection shall be based on the potential tax liability of the developer without regard for potential tax losses if the developer were to locate in another state. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis concerning the developer's application for an incentive award that a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall evaluate the net economic benefits on a present value basis under which the requested tax credit allocation amount is discounted to present value at the same discount rate as the projected benefits from the implementation of the proposed transformative project for which an award of tax credits is being sought. Projects that are predominantly residential or that qualify as special mission non-profit projects shall be excluded from the calculation of the net benefit test required pursuant to this subsection.

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

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

f. Prior to allocating an incentive award to 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 the developer has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer shall certify that each contractor or subcontractor performing work at the transformative 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 the State; and (3) possesses 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 developer.

g. Notwithstanding the limitation on incentive awards set forth in subsection b. of section 61 and section 98 of P.L.2020, c.156 (C.34:1B-329 and C.34:1B-362) to the contrary, the

authority may allow a developer of a transformative project a tax credit in an amount not to exceed the lesser of:

(1) (a) (i) 85 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality qualified as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.); or

(ii) 80 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality did not qualify as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.);

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

(c) 50 percent of the eligible project cost for any other transformative project;

(2) the total value of the project financing gap; or

(3) $400,000,000 except that for a transformative project that is developed in phases, the $400,000,000 limitation on incentive awards set forth in this paragraph shall apply to the total aggregate award for all phases of the transformative project.

15. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to read as follows:

C.34:1B-247 Limits on combined value of approved credits.

6. a. (1) The combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013 shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), there shall be no monetary cap on the value of credits approved by the authority attributable to the program pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

(2) (Deleted by amendment, P.L.2013, c.161)

(3) (Deleted by amendment, P.L.2013, c.161)

(4) (Deleted by amendment, P.L.2013, c.161)

(5) (Deleted by amendment, P.L.2013, c.161)

b. (1) A business shall submit an application for tax credits prior to July 1, 2019. The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, 2019.

(2) (a) A business shall submit its documentation indicating that it has met the capital investment and employment requirements and all conditions of approvals specified in the incentive agreement for certification of its tax credit amount, to the authority's satisfaction, within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. If the authority accepts the documentation, the authority shall request that the Division of Taxation in the Department of the Treasury issue a tax credit based on the approved documentation to be used by the business during the eligibility period. Except as provided in subparagraphs (b) and (c) of this paragraph, in no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.

(b) As of the effective date of P.L.2017, c.314, a business which applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149 (C.34:1B-242 et al.), shall submit its documentation

to the authority no later than July 28, 2019, indicating that it has met the capital investment and employment requirements specified in the incentive agreement for certification of its tax credit amount.

(c) If the Governor declares an emergency, then the chief executive officer of the authority shall have the discretion to grant an extension for the duration of the emergency and the board of the authority, upon recommendation of the chief executive officer, may grant two additional six-month extensions; provided that (i) the extensions are due to the economic disruption caused by the emergency; (ii) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (iii) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (iv) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

(3) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(4) A business seeking a credit for a mega project shall apply for the credit within four years after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

c. (1) In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount may be taken by the tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax periods and shall expire thereafter. The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time after the date of issuance for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. In the case of a tax certificate received after the end of the tax period for which the tax certificate was issued, whether by transfer or original issuance, a tax certificate holder or transferee shall not be required to amend the tax return for the tax period for which the tax certificate was issued or any successive tax period if the credit is first applied in the tax period in which it was issued or in a succeeding tax period, as authorized in subsection k. of this section, and subject to the carry-forward provision in this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the eligibility period, in years, may be taken in any tax period.

A business may elect to suspend its obligations for the 2020, 2021, 2022, 2023, or 2024 tax period, or any combination thereof, provided that the business shall make such election in writing to the authority no later than December 31, 2025 and such suspension shall extend the term of the eligibility period by a corresponding amount of time. The authority shall amend the incentive agreement, and the business shall execute the amended incentive agreement within the time period provided by the authority. The amended incentive agreement shall provide that the failure to submit the annual report due to the suspension shall not be a forfeiture or an uncertified tax period.

(2) Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the Director of the Division of Taxation in the Department of the Treasury accompanied by any additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of

P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(4) In order to respond to the profoundly negative impact of the COVID-19 pandemic on the State's economy and finances, the authority may request a tax certificate holder, at the tax certificate holder's discretion, to defer the application of a credit amount allowed pursuant to this section to a later tax period. Upon request, the authority and the tax certificate holder shall negotiate the terms of the deferral, which shall hold the certificate holder harmless, which will be made in the incentive agreement or as an addendum to the incentive agreement.

d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by the incentive agreement has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 80 percent of the number of jobs specified in the incentive agreement.

(3) (a) If the qualified business facility is sold by the owner in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of the business shall remain unaffected.

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease the facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease the facility; (ii) the ownership or leasing of the facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease the facility. The ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. The members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

(4) (a) For a project located within a Garden State Growth Zone, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an increased base credit amount for that tax period and each subsequent tax period, for each additional full-time

employee added above the number of full-time employees specified in the incentive agreement, until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount will be adjusted accordingly pursuant to this section.

(b) For a project located within a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which qualifies for a tax credit pursuant to subsubparagraph (ii) of subparagraphs (a) through (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the total tax credit amount per full-time job by using the certified capital investment of the project allowable under the applicable subsubparagraph and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount shall be adjusted accordingly pursuant to this section.

e. The authority shall not enter into an incentive agreement with a business that has previously received incentives pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other program administered by the authority unless:

(1) the business has satisfied all of its obligations underlying the previous award of incentives or is compliant with section 4 of P.L.2011, c.149 (C.34:1B-245); or

(2) the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

f. A business which has already applied for a tax credit incentive award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the tax credits, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

g. A business that has entered into an incentive agreement may request before December 31, 2024 to terminate the incentive agreement, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2024, due to the COVID-19 public health emergency; provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due, directly or indirectly, to the public health emergency and describing the impact of the public health emergency on the business. All credits for the tax period in which the termination occurs and all subsequent tax periods shall be forfeited, provided however that any credits of the business shall remain unaffected. A termination agreement executed by the authority and business shall not be amended.

h. A business that has entered into an incentive agreement may request, before December 31, 2024, to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification of the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period, provided that the business maintains the minimum number of new or retained full-time jobs required to be eligible pursuant to subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in employment shall first apply to the number of new full-time employees, and then shall apply to the number of retained full-time employees.

The authority shall calculate a new tax credit total amount for the 2020 tax period and the remainder of the eligibility period based on the reduced employment and shall amend the incentive agreement to reflect the recalculated award amount. In no event shall the modification result in an increase in employment or tax credit amount.

i. Following the termination of the public health emergency declared by the Governor pursuant to Executive Order No. 103 of 2020, as extended, a business that has entered into an incentive agreement may elect, before March 31, 2024, to waive, for the period beginning on July 1, 2022 and ending on March 31, 2024, the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility; provided, however, that a business that makes such an election shall satisfy the following criteria:

(1) any full-time employee employed by the business shall spend at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period and, if elected by the business, the 2024 tax period through March 31, 2024; and

(2) following the receipt by the business of its tax credit certificate or tax credit transfer certificate for the 2022 tax period, the business shall make a payment of an amount equal to five percent of the amount of tax credit the business receives for the 2022 tax period through March 31, 2024, which payment shall be made to the authority, and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within the municipality in which the qualified business facility is located, as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

j. Notwithstanding the provisions of section 2 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation to the contrary, beginning on April 1, 2024, and for all subsequent tax periods, a business located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337) that has entered into an incentive agreement with the authority may elect to waive the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility, provided, however, that a business that makes this election shall satisfy the following criteria:

(1) for a qualified business facility located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time employee employed by the business shall spend at least 40 percent of the employee's time at the qualified business facility during the tax period;

(2) the business shall extend by two years the term of its commitment period beyond the time set forth in the incentive agreement; and

(3) at the time the business submits its tax credit certificate certification for the tax period, the business shall make a non-refundable payment of an amount equal to 10 percent of the amount of the maximum annual tax credit that the business is eligible to receive for the tax period, which payment shall be made to the authority and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

k. Notwithstanding the provisions of any law to the contrary, the credit amount may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the commitment period set forth in the incentive agreement. The tax certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without being required to amend the tax return for the taxpayer for which the credit was issued, subject to the provisions of this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

l. Notwithstanding the provisions of subsection b. of this section or any law or regulation to the contrary, a business that has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134 may request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement, provided the business certifies that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period.

Repealer.

16. Sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321) are repealed.

17. This act shall take effect immediately.

Approved August 15, 2025.

ASSEMBLY, No. 5378

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 27, 2025

Sponsored by:
Assemblyman AL ABDELAZIZ
District 35 (Bergen and Passaic)
Assemblywoman SHAVONDA E. SUMTER
District 35 (Bergen and Passaic)
Assemblywoman LINDA S. CARTER
District 22 (Somerset and Union)

SYNOPSIS

Modifies provisions of Cultural Arts Incentives Program; eliminates Community-Anchored Development Program.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning State economic development policy, amending various parts of the statutory law, and repealing sections 43 through 53 of P.L.2020, c.156.

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

1. Section 2 of P.L.2023, c.197 (C.34:1B-384) is amended to read as follows:

2. The Legislature finds and declares that:

a. The New Jersey Economic Development Authority can effectively utilize cultural arts institution facilities as catalysts for broad economic development in targeted communities. Under the legislation, facilities engaged in the cultural, educational, or artistic enrichment of the people of this State are provided with the opportunity to facilitate targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the ability of cultural arts institution facilities to attract visitors and businesses to the State by leveraging the incalculable economic and cultural benefits of building and supporting world class cultural arts institutions.

b. Projects involving the development or rehabilitation of a cultural arts institution facility are inherently beneficial to the State because they provide vital contributions to the communities in which they are located, and together the arts community provides immeasurable economic and cultural benefits to the State.

c. **[**Through a competitive application process, a cultural arts institution will make its case for an amount of tax credits necessary for a project to be able to establish occupancy costs at a competitive level.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

d. The Legislature declares that two principal objectives underscore the policy approach of this legislation: first, that providing spaces for arts and culture to flourish will result in thriving communities; and second, the State must help to provide these spaces through an incentives program that better reflects the economics of arts and culture facilities and that the current suite of real estate programs cannot succeed in this endeavor.

(cf: P.L.2023, c.197, s.2)

2. Section 3 of P.L.2023, c.197 (C.34:1B-385) is amended to read as follows:

3. As used in P.L.2023, c.197 (C.34:1B-383 et al.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by a cultural arts institution. Control exists in all cases in which the entity is a

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.

member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A cultural arts institution may establish by clear and convincing evidence, as determined by the authority, that control exists in situations involving lesser percentages of ownership if the cultural arts institution shall have control, at a minimum, of all aspects of compliance with this program. An affiliate of a cultural arts institution may contribute to the project cost and may satisfy the requirement for site control during construction and the eligibility period, but in no event shall the tax credit certificate be issued to any affiliate.

"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 by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Cultural arts institution" means a governmental entity or nonprofit or governmental economic or community development entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, operating on a not-for-profit basis, and having the **[**primary**]** mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State. A "cultural arts institution" shall include a for-profit business seeking a tax credit for a cultural arts institution facility open to the public provided that the cultural arts institution facility is receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). A “cultural arts institution” shall include the National Park Service. A “cultural arts institution” shall also include a developer that has a partnership agreement with any of the foregoing.

"Cultural arts institution facility" means an existing or proposed facility within this State, operated and maintained by a cultural arts institution. A "cultural arts institution facility" includes, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, or any related facility that is principally for the support and benefit of any of the foregoing.

"Cultural arts project" means a capital project for the construction or improvement of a cultural arts institution facility that is located in the State for which a cultural arts institution is to be awarded tax credits by the authority under the program pursuant to a tax credit agreement, provided that the project for which the tax

credits are awarded will result in a capital investment of at least $5,000,000.

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

"Eligibility period" means the period during which a cultural arts institution may claim, sell, transfer, or otherwise use a tax credit under the program, beginning with the tax period in which the authority accepts certification of the cultural arts institution that it has met the capital investment requirements of the program and extending thereafter for a term of at least five years.

"Eligible position" means a full-time position in an entity in this State which the entity has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156, 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.

"New full-time job" means an eligible position created by a cultural arts institution at a cultural arts project that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the cultural arts institution.

["Operating reserve" means an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.**]**

"Program" means the Cultural Arts Incentives Program established pursuant to section 4 of P.L.2023, c.197 (C.34:1B-386).

"Project cost" means the costs incurred in connection with a cultural arts project by a cultural arts institution until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to

third parties, of an amount not to exceed 20 percent of the total costs, and the cost of infrastructure improvements, including ancillary infrastructure projects. The fees associated with the application or administration of tax credits under P.L.2023, c.197 (C.34:1B-383 et al.) shall not constitute a project cost. <u>The project cost shall not include costs incurred by a cultural arts institution for construction activities undertaken prior to the date of application for the program.</u>

"Project financing gap" means the part of the total project 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 capital contributed by the cultural arts institution, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans; provided, however, that for a cultural arts project located in a government-restricted municipality, the capital contributed by the cultural arts institution shall not be less than 10 percent of the total project cost.

"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.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 8 of P.L.2023, c.197 (C.34:1B-390) between the authority and a cultural arts institution.

"Work First New Jersey program" means the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

(cf: P.L.2023, c.197, s.3)

3. Section 4 of P.L.2023, c.197 (C.34:1B-386) is amended to read as follows:

4. a. The Cultural Arts Incentives Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The board shall certify an eligible cultural arts institution based on the requirements of section 5 of P.L.2023, c.197 (C.34:1B-387), and may approve the award of a tax credit to a cultural arts institution pursuant to the provisions of P.L.2023, c.197 (C.34:1B-383 et al.). The value of all tax credits approved by the authority to cultural arts institutions under the program shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). Any tax credit awarded under the program may be utilized by a cultural arts institution for the same project in conjunction with a tax credit award made pursuant to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); provided, however, that any tax credit awarded under the program shall not be considered to

be developer contributed capital for the purposes of calculating the project financing gap for an incentive award under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

b. (1) The authority shall administer the program to incentivize the establishment of cultural arts projects by a cultural arts institution independently or in collaboration with one or more governmental entities. A cultural arts project involving the development or rehabilitation of a cultural arts institution facility shall be eligible for a tax credit award in an amount not to exceed 100 percent of eligible project costs**[**, except, in the case of a cultural arts institution operating on a not-for-profit basis, the tax credit award may include up to 100 percent of such cultural arts institution's appropriate operating reserve as determined by the authority**]**. The value of tax credits approved by the authority under the program for a cultural arts project shall not exceed $75,000,000 per cultural arts project.

(2) (a) A cultural arts institution shall sell and transfer the tax credits awarded under the program, or adopt a plan to use such tax credits in order to finance the completion of the cultural arts project. A cultural arts institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an equity investment in, or secure other financial support for, the cultural arts project that will permit the cultural arts institution to develop the cultural arts project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the cultural arts project. The authority shall evaluate each proposed cultural arts project to determine the likelihood of the project's success. A cultural arts institution shall submit to the authority an independent market study showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful. The authority may procure third party consultants to determine a project's likelihood of success.

(b) Consistent with an applicable tax credit agreement, a tax credit awarded to a cultural arts institution may be applied against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(cf: P.L.2023, c.197, s.4)

4. Section 5 of P.L.2023, c.197 (C.34:1B-387) is amended to read as follows:

5. a. A cultural arts institution shall be eligible to receive a tax credit under the program only if the cultural arts institution is eligible pursuant to subsection b. of this section and submits a program application to the authority that results in completion of a cultural arts project.

b. At the time of application, a cultural arts institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed cultural arts project will result in a capital investment of at least $5,000,000;

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete the cultural arts project and then, unless the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution, operate the cultural arts **[**project**]** institution facility;

(3) that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless:

(a) the authority determines that the cultural arts project would not be completed without an award of tax credits under the program; or

(b) the construction activities are limited to general maintenance, necessary repairs, demolition, environmental assessment, environmental investigation, and environmental remediation;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the cultural arts institution to finance the establishment of the cultural arts project;

(5) the total aggregate value of the tax credits for the entire eligibility period that is necessary in order for the cultural arts institution to finance the establishment of the cultural arts project;

(6) that the cultural arts project shall comply with the standards established by the authority through regulation based on 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 in order to reduce environmental degradation and encourage long-term cost reduction;

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

(8) a description of the significant economic, social, planning, employment, and other benefits that would accrue to the State, county, or municipality from the cultural arts project;

(9) that during the eligibility period, each worker employed to perform construction work and building services work at the cultural arts 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.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the cultural arts project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to construction work and building services work at the entire facility. In the event the cultural arts project

constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(10) that during the eligibility period, the cultural arts institution shall partner with one or more local community organizations that provide support and services to Work First New Jersey program recipients, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients, which activities and services may include, but shall not be limited to: work-study programs, internships, sector-based contextualized literacy training, skills-based training in growth industries in the State, and job retention and advancement services;

(11) that the timing of the award of tax credits under the program shall allow for the successful completion and operation of the cultural arts project demonstrated through an independent market study submitted by the applicant showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful; and that the cultural arts institution has a strong prior track record of success or an independent analysis demonstrates that a newly formed cultural arts institution will be successful;

(12) a project financing gap exists, or the authority determines that the cultural arts project will generate a below market rate of return. The authority shall evaluate past and projected fundraising efforts of the cultural arts institution to determine whether a project financing gap exists;

(13) that<u>, unless the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution,</u> the cultural arts institution will have ownership of, or lease space in, the cultural arts institution facility and operate or hold an operating agreement for at least the eligibility period; and

(14) that the cultural arts institution will have at least 20 percent equity in the cultural arts project, which equity interest may include amounts contributed through government grants, not including economic subsidies provided by the authority, received by the cultural arts institution; provided, however, for a cultural arts project located in a government-restricted municipality, the equity required shall not be less than 10 percent.

c. Prior to the board considering an application submitted by a cultural arts institution, 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 cultural arts institution 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. The cultural arts institution shall certify that any contractors or subcontractors that will perform work at the cultural arts 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 authority may also contract with an independent third party to perform a background check on a cultural arts institution.

(cf: P.L.2023, c.197, s.5)

5. Section 7 of P.L.2023, c.197 (C.34:1B-389) is amended to read as follows:

7. a. The authority shall **[**award tax credits under the program through a competitive application process consisting of at least one award round each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website**]** conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may implement a competitive application process whereby the authority shall evaluate all applications submitted by a date certain as if all were submitted on that date.

b. **[**The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for cultural arts projects that satisfy the criteria set forth in sections 5 through 7 of P.L.2023, c.197 (C.34:1B-387 through 34:1B-389) in a given award round shall be ranked on the basis of a scoring system developed by the authority, in consultation with the New Jersey State Council on the Arts. Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that each applicant is required to attain to be eligible for a tax credit.**]** To receive a tax credit award, a cultural arts institution shall be required to meet a minimum score, as determined by the authority pursuant to this section.

c. The scoring system developed by the authority pursuant to **[**subsection b. of**]** this section shall assess applications for tax credits based on **[**competitive**]** criteria, which shall include, but shall not be limited to:

(1) the amount of tax credits requested by the cultural arts institution compared to the amount of tax credits required for the completion of the cultural arts project;

(2) how the cultural arts project will advance State, regional, and local goals concerning the development of arts and cultural facilities in underserved communities;

(3) the relationship of the cultural arts project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(4) the degree to which the cultural arts project enhances and promotes job creation and economic development;

(5) the extent of economic and related social distress in the municipality and the immediate area surrounding the cultural arts project, including whether the cultural arts project is located in a qualified incentive tract or other areas of the State identified from time to time by the authority in rules;

(6) the quality and number of new full-time jobs that will be created by the cultural arts institution; and

(7) if the cultural arts institution has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the cultural arts project is located.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting **[**competitive**]** the criteria required under the program when necessary to respond to conditions in the State.

e. Prior to the award of 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 cultural arts institution 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 cultural arts institution and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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. Provided that all parties are in compliance with this subsection, the authority shall allocate tax credits to cultural arts projects according to the cultural arts projects' scores and until either the available tax credits are exhausted or all cultural arts projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible cultural arts projects, a cultural arts project may be offered a partial tax credit valued at less than what is provided for in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386).

f. Applications that do not receive the minimum score established by the authority **[**for that award round**]** shall not receive further consideration for a tax credit by the authority **[**in that award

round**]** for that application; however, a cultural arts institution may **[**revise or complete**]** submit a new application **[**to be submitted in a subsequent award round**]**.

g. **[**If a cultural arts institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

(cf: P.L.2023, c.197, s.7)

6. Section 8 of P.L.2023, c.197 (C.34:1B-390) is amended to read as follows:

8. a. Following approval and selection of an application pursuant to sections 6 and 7 of P.L.2023, c.197 (C.34:1B-388 and 34:1B-389), the authority shall enter into a tax credit agreement with the cultural arts institution.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the cultural arts institution and specify the duration of the eligibility period, which shall be no less than five years and shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the cultural arts project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the cultural arts institution provides executed financing commitments to the authority and a verification of the cultural arts institution's projected cash flow at the time of certification that the project is completed;

(2) specify that the authority or the State may purchase tax credits offered for sale by a cultural arts institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(3) at a minimum, require a cultural arts institution to provide oversight of the cultural arts project through ongoing reporting by the cultural arts institution to the authority;

(4) specify other measures through which the authority shall ensure oversight of outstanding tax credits, and, in the event that a cultural arts institution fails to meet its obligations under the tax credit agreement or any program requirement, including any

representations made by the cultural arts institution during the [competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)] application process, establish the right of the authority to reduce, rescind, or recapture tax credits in the authority's discretion; and

(5) at a minimum, require that the cultural arts institution adopt specific nondiscrimination policies for the operation of a cultural arts project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the cultural arts institution. As part of the authority's review of the annual reports required from each cultural arts institution, the authority shall confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the cultural arts institution is in substantial good standing with the respective department, or has entered into an agreement with such department that includes a practical corrective action plan for the cultural arts institution; and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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 tax credit agreement shall include a provision that the cultural arts institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement, or the cultural arts institution is neither in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury nor has entered into a practical corrective action plan. The tax credit agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting requirement.

e. A cultural arts institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The cultural arts institution, or an authorized agent of the cultural arts institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

(cf: P.L.2023, c.197, s.8)

7. Section 9 of P.L.2023, c.197 (C.34:1B-391) is amended to read as follows:

9. a. Up to the limits established in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386), and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the cultural arts project, or upon any other event evidencing project completion as set forth in the tax credit agreement, a cultural arts institution of such approved cultural arts project shall be awarded a tax credit. No more than the amount of tax credits equal to the total credit amount awarded under the program divided by the duration of the eligibility period in years may be taken in any tax period.

b. A cultural arts institution that is awarded a tax credit under P.L.2023, c.197 (C.34:1B-383 et al.) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the cultural arts institution is aware of any condition, event, or act that would cause the cultural arts institution not to be in compliance with the tax credit agreement, the representations made to the authority during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, or the provisions of P.L.2023, c.197 (C.34:1B-383 et al.) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The cultural arts institution or an authorized agent of the cultural arts institution shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

c. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the cultural arts institution and the Director of the Division of Taxation in the Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the cultural arts institution, that the cultural arts institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 10 of P.L.2023, c.197 (C.34:1B-392); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the cultural arts project, if that use is in accordance with rules and regulations adopted by the authority to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the cultural arts institution and the authority to provide the cultural arts institution with a tax credit transfer certificate, as described in section 10 of P.L.2023, c.197 (C.34:1B-392), or a tax credit certificate for the value awarded by the authority for that year that the cultural arts institution may use as provided in paragraph (1) of this subsection and in accordance

with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.
(cf: P.L.2023, c.197, s.9)

8. Section 10 of P.L.2023, c.197 (C.34:1B-392) is amended to read as follows:

10. a. A cultural arts institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the cultural arts institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than $25,000, in the privilege period during which the cultural arts institution receives the tax credit transfer certificate from the director, to another person who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The cultural arts institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the cultural arts institution of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a cultural arts institution by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to P.L.2023, c.197 (C.34:1B-383 et al.) and any other terms and conditions that the director may prescribe; provided, however, that the holder of a tax credit certificate may transfer all or part of the tax credit amount, on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, **[**and the**]** in the tax period in which it was issued, or in any of the next three successive tax periods. The transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. A transferee may carry forward **[**all or part of the tax**]** an unused credit **[**amount**]** for use in any of the next five successive tax periods, and the unused credit shall expire thereafter. Notwithstanding any provision of this section to the contrary, the amount of tax credits that may be claimed by the transferee in any tax period shall not exceed the total tax credit amount divided by the duration of the eligibility period in years.

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

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

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

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

(5) the consideration received by the transferor.

(cf: P.L.2023, c.197, s.10)

9. Section 11 of P.L.2023, c.197 (C.34:1B-393) is amended to read as follows:

11. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L.2023, c.197 (C.34:1B-383 et al.), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L. , c. (pending before the Legislature as this bill), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(cf: P.L.2023, c.197, s.11)

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

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9

through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);**]** the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

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

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

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

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

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

(e) for tax credits awarded under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020,

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

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156

(C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

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

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

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

and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b);

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

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

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

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

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

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

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

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

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

(vii) increased development proximate to mass transit facilities;

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

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

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

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

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

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

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

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

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

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

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

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321);**]** <u>(Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)</u>

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

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

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

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

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

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

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

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

12. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

1. a. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance that is approved, funded, authorized, administered or provided by the authority to any entity and is provided before, during or after completion of a project, including but not limited to, all authority financial assistance received by the entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

b. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the

performance of any contract, for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work in connection with the ["New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the] "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this subsection shall apply to any site preparation work performed 24 months prior to and during the incentive eligibility period of any project receiving tax credits under the ["New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the] "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in which there is a continuity of ownership in the site of the redevelopment project, including work undertaken to fulfill any condition of receiving tax credits under the programs. Work that is subject to the requirements of this subsection shall include the performance of any contract for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work undertaken on a facility for operations which are necessary for the receipt of tax credits under the ["New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the] "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the tax credit and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and subcontractors subject to the prevailing wage requirement set forth in this section shall be registered with the Department of Labor and Workforce Development pursuant to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the ["New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through

C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its application that all construction contracts undertaken on any project in connection with an award under the programs comply with the prevailing wage requirements of this subsection. If at any time the authority determines that the developer made a material misrepresentation regarding compliance with the provisions of this subsection on the developer's application, the developer shall forfeit 35 percent of the tax credits allowed under the programs, and pay to the affected workers back wages in an amount that compensates the workers at the prevailing wage rate for the work performed.

(cf: P.L.2020, c.156, s.112)

13. Sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) are repealed.

14. This act shall take effect immediately.

STATEMENT

This bill expands eligibility under the Cultural Arts Incentives Program (program), authorizes the New Jersey Economic Development Authority (authority) to accept applications on a rolling basis, and revises certain provisions concerning tax credits awarded under the program.

Applicant Eligibility

Under current law, certain entities that qualify as a “cultural arts institution” may apply for tax credits to finance the development or rehabilitation of a cultural arts institution facility under the program. Among other requirements, to be eligible for tax credits, a cultural arts institution is required to: (1) have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State; (2) operate and maintain the cultural arts institution facility; and (3) own or lease space in the cultural arts institution facility.

This bill amends current law to provide an exception to the requirement that a cultural arts institution have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State. Under the bill, an entity may qualify as a cultural arts institution so long as any part of the entity’s mission and specific policy goals addresses the cultural, educational, or artistic enrichment of the people of this State. The bill also expands the scope of cultural arts institutions to include the National Park Service, as well as any developer that has a

partnership agreement with an entity that qualifies as a cultural arts institution.

The bill also amends current law to provide an exception to the requirements that a cultural arts institution operate and maintain, and either own or lease space in, the cultural arts institution facility. Under the bill, these requirements do not apply if the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution.

Additionally, the bill amends the definition of "cultural arts institution facility" under current law to include, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, or any related facility that is principally for the support and benefit of any of the foregoing.

Operating Reserve

This bill removes a provision of current law that authorizes the authority to award to certain cultural arts institutions, in addition to the tax credit award otherwise provided for under the program, a tax credit valued at up to 100 percent of an operating reserve, as determined by the authority. Current law defines an "operating reserve" to mean an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.

Construction Prior to Application Date

Under current law, an applicant is required to demonstrate that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless the authority determines that the cultural arts project would not be completed without an award of tax credits under the program.

This bill amends this requirement to permit some construction prior to the submission of an application, provided that the construction activities are limited to general maintenance, necessary repairs, demolition, environmental assessment, environmental investigation, and environmental remediation. The bill also amends the definition of "project cost" to exclude costs incurred for construction activities prior to the date of a cultural arts institution's application under the program.

Application Process

Current law requires the authority to implement a competitive application process for the program. Instead, this bill requires the authority to conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may instead implement a competitive application process whereby the authority

is required to evaluate all applications submitted by a date certain as if all were submitted on that date.

Use of Transferred Tax Credits

Under current law, the transferee to whom a tax credit certificate is transferred under the program may carry forward all or part of the tax credit amount in any of the next five successive tax periods.

This bill amends this provision to permit a transferee to use the credit in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. Under the bill, the transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in the bill, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. The transferee may carry forward an unused credit for use in any of the next five successive tax periods, and the unused credit expires thereafter.

Repeal of New Jersey Community-Anchored Development Act

Under current law, a total of $1.2 billion tax credits may be awarded in total under the program and the New Jersey Community-Anchored Development Program. The authority is scheduled to begin accepting applications under the New Jersey Community-Anchored Development Program in 2026.

This bill repeals the New Jersey Community-Anchored Development Act that established the New Jersey Community-Anchored Development Program.

[First Reprint]

ASSEMBLY, No. 5378

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 27, 2025

Sponsored by:
Assemblyman AL ABDELAZIZ
District 35 (Bergen and Passaic)
Assemblywoman SHAVONDA E. SUMTER
District 35 (Bergen and Passaic)
Assemblywoman LINDA S. CARTER
District 22 (Somerset and Union)

SYNOPSIS

Modifies provisions of Cultural Arts Incentives Program; eliminates Community-Anchored Development Program.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 15, 2025, with amendments.

AN ACT concerning State economic development policy, amending various parts of the statutory law, and repealing sections 43 through 53 of P.L.2020, c.156.

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

1. Section 2 of P.L.2023, c.197 (C.34:1B-384) is amended to read as follows:

2. The Legislature finds and declares that:

a. The New Jersey Economic Development Authority can effectively utilize cultural arts institution facilities as catalysts for broad economic development in targeted communities. Under the legislation, facilities engaged in the cultural, educational, or artistic enrichment of the people of this State are provided with the opportunity to facilitate targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the ability of cultural arts institution facilities to attract visitors and businesses to the State by leveraging the incalculable economic and cultural benefits of building and supporting world class cultural arts institutions.

b. Projects involving the development or rehabilitation of a cultural arts institution facility are inherently beneficial to the State because they provide vital contributions to the communities in which they are located, and together the arts community provides immeasurable economic and cultural benefits to the State.

c. **[**Through a competitive application process, a cultural arts institution will make its case for an amount of tax credits necessary for a project to be able to establish occupancy costs at a competitive level.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

d. The Legislature declares that two principal objectives underscore the policy approach of this legislation: first, that providing spaces for arts and culture to flourish will result in thriving communities; and second, the State must help to provide these spaces through an incentives program that better reflects the economics of arts and culture facilities and that the current suite of real estate programs cannot succeed in this endeavor.

(cf: P.L.2023, c.197, s.2)

2. Section 3 of P.L.2023, c.197 (C.34:1B-385) is amended to read as follows:

3. As used in P.L.2023, c.197 (C.34:1B-383 et al.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by a cultural arts

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AAP committee amendments adopted May 15, 2025.

institution. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A cultural arts institution may establish by clear and convincing evidence, as determined by the authority, that control exists in situations involving lesser percentages of ownership if the cultural arts institution shall have control, at a minimum, of all aspects of compliance with this program. An affiliate of a cultural arts institution may contribute to the project cost and may satisfy the requirement for site control during construction and the eligibility period, but in no event shall the tax credit certificate be issued to any affiliate.

"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 by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Cultural arts institution" means a governmental entity or nonprofit or governmental economic or community development entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, operating on a not-for-profit basis, and having the **[**primary**]** mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State. A "cultural arts institution" shall include a for-profit business seeking a tax credit for a cultural arts institution facility open to the public provided that the cultural arts institution facility is receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). A “cultural arts institution” shall include the National Park Service. A “cultural arts institution” shall also include a developer that has a partnership agreement with any of the foregoing.

"Cultural arts institution facility" means an existing or proposed facility within this State, operated and maintained by a cultural arts institution. A "cultural arts institution facility" includes, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, or any related facility that is principally for the support and benefit of any of the foregoing.

"Cultural arts project" means a capital project for the construction or improvement of a cultural arts institution facility that is located in the State for which a cultural arts institution is to be awarded tax credits by the authority under the program pursuant

to a tax credit agreement, provided that the project for which the tax credits are awarded will result in a capital investment of at least $5,000,000.

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

"Eligibility period" means the period during which a cultural arts institution may claim, sell, transfer, or otherwise use a tax credit under the program, beginning with the tax period in which the authority accepts certification of the cultural arts institution that it has met the capital investment requirements of the program and extending thereafter for a term of at least five years.

"Eligible position" means a full-time position in an entity in this State which the entity has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156, 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.

"New full-time job" means an eligible position created by a cultural arts institution at a cultural arts project that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the cultural arts institution.

["Operating reserve" means an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.**]**

"Program" means the Cultural Arts Incentives Program established pursuant to section 4 of P.L.2023, c.197 (C.34:1B-386).

"Project cost" means the costs incurred in connection with a cultural arts project by a cultural arts institution until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not

directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs, and the cost of infrastructure improvements, including ancillary infrastructure projects. The fees associated with the application or administration of tax credits under P.L.2023, c.197 (C.34:1B-383 et al.) shall not constitute a project cost. The project cost shall not include costs incurred by a cultural arts institution for construction activities undertaken prior to the date of application for the program.

"Project financing gap" means the part of the total project 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 capital contributed by the cultural arts institution, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans; provided, however, that for a cultural arts project located in a government-restricted municipality, the capital contributed by the cultural arts institution shall not be less than 10 percent of the total project cost.

"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.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 8 of P.L.2023, c.197 (C.34:1B-390) between the authority and a cultural arts institution.

"Work First New Jersey program" means the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

(cf: P.L.2023, c.197, s.3)

3. Section 4 of P.L.2023, c.197 (C.34:1B-386) is amended to read as follows:

4. a. The Cultural Arts Incentives Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The board shall certify an eligible cultural arts institution based on the requirements of section 5 of P.L.2023, c.197 (C.34:1B-387), and may approve the award of a tax credit to a cultural arts institution pursuant to the provisions of P.L.2023, c.197 (C.34:1B-383 et al.). The value of all tax credits approved by the authority to cultural arts institutions under the program shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). Any tax credit awarded under the program may be utilized by a cultural arts institution for the same project in conjunction with a tax credit award made pursuant to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); provided, however, that

any tax credit awarded under the program shall not be considered to be developer contributed capital for the purposes of calculating the project financing gap for an incentive award under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

b. (1) The authority shall administer the program to incentivize the establishment of cultural arts projects by a cultural arts institution independently or in collaboration with one or more governmental entities. A cultural arts project involving the development or rehabilitation of a cultural arts institution facility shall be eligible for a tax credit award in an amount not to exceed 100 percent of eligible project costs**[**, except, in the case of a cultural arts institution operating on a not-for-profit basis, the tax credit award may include up to 100 percent of such cultural arts institution's appropriate operating reserve as determined by the authority**]**. The value of tax credits approved by the authority under the program for a cultural arts project shall not exceed $75,000,000 per cultural arts project.

(2) (a) A cultural arts institution shall sell and transfer the tax credits awarded under the program, or adopt a plan to use such tax credits in order to finance the completion of the cultural arts project. A cultural arts institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an equity investment in, or secure other financial support for, the cultural arts project that will permit the cultural arts institution to develop the cultural arts project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the cultural arts project. The authority shall evaluate each proposed cultural arts project to determine the likelihood of the project's success. A cultural arts institution shall submit to the authority an independent market study showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful. The authority may procure third party consultants to determine a project's likelihood of success.

(b) Consistent with an applicable tax credit agreement, a tax credit awarded to a cultural arts institution may be applied against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(cf: P.L.2023, c.197, s.4)

4. Section 5 of P.L.2023, c.197 (C.34:1B-387) is amended to read as follows:

5. a. A cultural arts institution shall be eligible to receive a tax credit under the program only if the cultural arts institution is eligible pursuant to subsection b. of this section and submits a

program application to the authority that results in completion of a cultural arts project.

b. At the time of application, a cultural arts institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed cultural arts project will result in a capital investment of at least $5,000,000;

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete the cultural arts project and then, unless the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution, operate the cultural arts **[**project**]** institution facility;

(3) that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless:

(a) the authority determines that the cultural arts project would not be completed without an award of tax credits under the program; or

(b) the construction activities are limited to general maintenance, necessary repairs, demolition, environmental assessment, environmental investigation, and environmental remediation;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the cultural arts institution to finance the establishment of the cultural arts project;

(5) the total aggregate value of the tax credits for the entire eligibility period that is necessary in order for the cultural arts institution to finance the establishment of the cultural arts project;

(6) that the cultural arts project shall comply with the standards established by the authority through regulation based on 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 in order to reduce environmental degradation and encourage long-term cost reduction;

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

(8) a description of the significant economic, social, planning, employment, and other benefits that would accrue to the State, county, or municipality from the cultural arts project;

(9) that during the eligibility period, each worker employed to perform construction work and building services work at the cultural arts 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.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the cultural arts project constitutes a lease of more than 55 percent of a single facility, these

requirements shall apply to construction work and building services work at the entire facility. In the event the cultural arts project constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(10) that during the eligibility period, the cultural arts institution shall partner with one or more local community organizations that provide support and services to Work First New Jersey program recipients, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients, which activities and services may include, but shall not be limited to: work-study programs, internships, sector-based contextualized literacy training, skills-based training in growth industries in the State, and job retention and advancement services;

(11) that the timing of the award of tax credits under the program shall allow for the successful completion and operation of the cultural arts project demonstrated through an independent market study submitted by the applicant showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful; and that the cultural arts institution has a strong prior track record of success or an independent analysis demonstrates that a newly formed cultural arts institution will be successful;

(12) a project financing gap exists, or the authority determines that the cultural arts project will generate a below market rate of return. The authority shall evaluate past and projected fundraising efforts of the cultural arts institution to determine whether a project financing gap exists;

(13) that, unless the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution, the cultural arts institution will have ownership of, or lease space in, the cultural arts institution facility and operate or hold an operating agreement for at least the eligibility period; and

(14) that the cultural arts institution will have at least 20 percent equity in the cultural arts project, which equity interest may include amounts contributed through government grants, not including economic subsidies provided by the authority, received by the cultural arts institution; provided, however, for a cultural arts project located in a government-restricted municipality, the equity required shall not be less than 10 percent.

c. Prior to the board considering an application submitted by a cultural arts institution, 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 cultural arts institution 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. The cultural arts institution shall certify that any contractors or subcontractors that will perform work at the cultural

arts 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 authority may also contract with an independent third party to perform a background check on a cultural arts institution.

(cf: P.L.2023, c.197, s.5)

5. Section 7 of P.L.2023, c.197 (C.34:1B-389) is amended to read as follows:

7. a. The authority shall **[**award tax credits under the program through a competitive application process consisting of at least one award round each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website**]** conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may implement a competitive application process whereby the authority shall evaluate all applications submitted by a date certain as if all were submitted on that date.

b. **[**The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for cultural arts projects that satisfy the criteria set forth in sections 5 through 7 of P.L.2023, c.197 (C.34:1B-387 through 34:1B-389) in a given award round shall be ranked on the basis of a scoring system developed by the authority, in consultation with the New Jersey State Council on the Arts. Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that each applicant is required to attain to be eligible for a tax credit.**]** To receive a tax credit award, a cultural arts institution shall be required to meet a minimum score, as determined by the authority pursuant to this section.

c. The scoring system developed by the authority pursuant to **[**subsection b. of**]** this section shall assess applications for tax credits based on **[**competitive**]** criteria, which shall include, but shall not be limited to:

(1) the amount of tax credits requested by the cultural arts institution compared to the amount of tax credits required for the completion of the cultural arts project;

(2) how the cultural arts project will advance State, regional, and local goals concerning the development of arts and cultural facilities in underserved communities;

(3) the relationship of the cultural arts project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(4) the degree to which the cultural arts project enhances and promotes job creation and economic development;

(5) the extent of economic and related social distress in the municipality and the immediate area surrounding the cultural arts project, including whether the cultural arts project is located in a qualified incentive tract or other areas of the State identified from time to time by the authority in rules;

(6) the quality and number of new full-time jobs that will be created by the cultural arts institution; and

(7) if the cultural arts institution has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the cultural arts project is located.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting **[**competitive**]** the criteria required under the program when necessary to respond to conditions in the State.

e. Prior to the award of 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 cultural arts institution 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 cultural arts institution and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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. Provided that all parties are in compliance with this subsection, the authority shall allocate tax credits to cultural arts projects according to the cultural arts projects' scores and until either the available tax credits are exhausted or all cultural arts projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible cultural arts projects, a cultural arts project may be offered a partial tax credit valued at less than what is provided for in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386).

f. Applications that do not receive the minimum score established by the authority **[**for that award round**]** shall not receive further consideration for a tax credit by the authority **[**in that award round**]** for that application; however, a cultural arts institution may **[**revise or complete**]** submit a new application **[**to be submitted in a subsequent award round**]**.

g. **[**If a cultural arts institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

(cf: P.L.2023, c.197, s.7)

6. Section 8 of P.L.2023, c.197 (C.34:1B-390) is amended to read as follows:

8. a. Following approval and selection of an application pursuant to sections 6 and 7 of P.L.2023, c.197 (C.34:1B-388 and 34:1B-389), the authority shall enter into a tax credit agreement with the cultural arts institution.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the cultural arts institution and specify the duration of the eligibility period, which shall be no less than five years and shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the cultural arts project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the cultural arts institution provides executed financing commitments to the authority and a verification of the cultural arts institution's projected cash flow at the time of certification that the project is completed;

(2) specify that the authority or the State may purchase tax credits offered for sale by a cultural arts institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(3) at a minimum, require a cultural arts institution to provide oversight of the cultural arts project through ongoing reporting by the cultural arts institution to the authority;

(4) specify other measures through which the authority shall ensure oversight of outstanding tax credits, and, in the event that a cultural arts institution fails to meet its obligations under the tax credit agreement or any program requirement, including any representations made by the cultural arts institution during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, establish the right of the authority to reduce, rescind, or recapture tax credits in the authority's discretion; and

(5) at a minimum, require that the cultural arts institution adopt specific nondiscrimination policies for the operation of a cultural arts project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the cultural arts institution. As part of the authority's review of the annual reports required from each cultural arts institution, the authority shall confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the cultural arts institution is in substantial good standing with the respective department, or has entered into an agreement with such department that includes a practical corrective action plan for the cultural arts institution; and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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 tax credit agreement shall include a provision that the cultural arts institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement, or the cultural arts institution is neither in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury nor has entered into a practical corrective action plan. The tax credit agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting requirement.

e. A cultural arts institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The cultural arts institution, or an authorized agent of the cultural arts institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

(cf: P.L.2023, c.197, s.8)

7. Section 9 of P.L.2023, c.197 (C.34:1B-391) is amended to read as follows:

9. a. Up to the limits established in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386), and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the cultural arts project, or upon any other event evidencing project completion as set forth in the tax credit agreement, a cultural arts institution of such approved cultural arts project shall be awarded a tax credit. No more than the amount of tax credits equal to the total credit amount awarded under the program divided by the duration of the eligibility period in years may be taken in any tax period.

b. A cultural arts institution that is awarded a tax credit under P.L.2023, c.197 (C.34:1B-383 et al.) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the cultural arts institution is aware of any condition, event, or act that would cause the cultural arts institution not to be in compliance with the tax credit agreement, the representations made to the authority during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, or the provisions of P.L.2023, c.197 (C.34:1B-383 et al.) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The cultural arts institution or an authorized agent of the cultural arts institution shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

c. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the cultural arts institution and the Director of the Division of Taxation in the Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the cultural arts institution, that the cultural arts institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 10 of P.L.2023, c.197 (C.34:1B-392); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the cultural arts project, if that use is in accordance with rules and regulations adopted by the authority to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the cultural arts institution and the authority to provide the cultural arts institution with a tax credit transfer certificate, as described in section 10 of P.L.2023, c.197 (C.34:1B-392), or a tax credit certificate for the value awarded by the authority for that year that the cultural arts institution may use as provided in paragraph (1) of this subsection and in accordance

with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.
(cf: P.L.2023, c.197, s.9)

8. Section 10 of P.L.2023, c.197 (C.34:1B-392) is amended to read as follows:

10. a. A cultural arts institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the cultural arts institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than $25,000, in the privilege period during which the cultural arts institution receives the tax credit transfer certificate from the director, to another person who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The cultural arts institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the cultural arts institution of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a cultural arts institution by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to P.L.2023, c.197 (C.34:1B-383 et al.) and any other terms and conditions that the director may prescribe; provided, however, that the holder of a tax credit certificate may transfer all or part of the tax credit amount, on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, **[**and the**]** in the tax period in which it was issued, or in any of the next three successive tax periods. The transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. A transferee may carry forward **[**all or part of the tax**]** an unused credit **[**amount**]** for use in any of the next five successive tax periods, and the unused credit shall expire thereafter. Notwithstanding any provision of this section to the contrary, the amount of tax credits that may be claimed by the transferee in any tax period shall not exceed the total tax credit amount divided by the duration of the eligibility period in years.

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

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

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

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

(5) the consideration received by the transferor.

(cf: P.L.2023, c.197, s.10)

9. Section 11 of P.L.2023, c.197 (C.34:1B-393) is amended to read as follows:

11. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L.2023, c.197 (C.34:1B-383 et al.), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L. , c. (pending before the Legislature as this bill), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(cf: P.L.2023, c.197, s.11)

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

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9

through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);**]** the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.) shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

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

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

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

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

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

(e) for tax credits awarded under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020,

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

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156

(C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

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

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

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

and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b);

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

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

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

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

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

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

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

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

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

(vii) increased development proximate to mass transit facilities;

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

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

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

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

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

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

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

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

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

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

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

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

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

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

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

(5) [the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321);] <u>(Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)</u>

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

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

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

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

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

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

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

(cf: P.L.2020, c.156, s.89)**]**[1]

[1]11. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

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

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

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

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

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

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

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

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

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

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

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

12. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

1. a. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other

financial assistance that is approved, funded, authorized, administered or provided by the authority to any entity and is provided before, during or after completion of a project, including but not limited to, all authority financial assistance received by the entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

b. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any contract, for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work in connection with the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this subsection shall apply to any site preparation work performed 24 months prior to and during the incentive eligibility period of any project receiving tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in which there is a continuity of ownership in the site of the redevelopment project, including work undertaken to fulfill any condition of receiving tax credits under the programs. Work that is subject to the requirements of this subsection shall include the performance of any contract for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work undertaken on a facility for operations which are necessary for the receipt of tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),

and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the tax credit and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and subcontractors subject to the prevailing wage requirement set forth in this section shall be registered with the Department of Labor and Workforce Development pursuant to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its application that all construction contracts undertaken on any project in connection with an award under the programs comply with the prevailing wage requirements of this subsection. If at any time the authority determines that the developer made a material misrepresentation regarding compliance with the provisions of this subsection on the developer's application, the developer shall forfeit 35 percent of the tax credits allowed under the programs, and pay to the affected workers back wages in an amount that compensates the workers at the prevailing wage rate for the work performed.

(cf: P.L.2020, c.156, s.112)

13. Sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) are repealed.

14. This act shall take effect immediately.

[Second Reprint]

ASSEMBLY, No. 5378

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 27, 2025

Sponsored by:
Assemblyman AL ABDELAZIZ
District 35 (Bergen and Passaic)
Assemblywoman SHAVONDA E. SUMTER
District 35 (Bergen and Passaic)
Assemblywoman LINDA S. CARTER
District 22 (Somerset and Union)
Senator BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

Co-Sponsored by:
Senators Zwicker and McKnight

SYNOPSIS

Modifies provisions of Cultural Arts Incentives Program, New Jersey Aspire Program, and Grow New Jersey Program; eliminates Community-Anchored Development Program.

CURRENT VERSION OF TEXT

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

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

AN ACT concerning State economic development policy, amending various parts of the statutory law, and repealing sections 43 through 53 of P.L.2020, c.156.

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

1. Section 2 of P.L.2023, c.197 (C.34:1B-384) is amended to read as follows:

2. The Legislature finds and declares that:

a. The New Jersey Economic Development Authority can effectively utilize cultural arts institution facilities as catalysts for broad economic development in targeted communities. Under the legislation, facilities engaged in the cultural, educational, or artistic enrichment of the people of this State are provided with the opportunity to facilitate targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the ability of cultural arts institution facilities to attract visitors and businesses to the State by leveraging the incalculable economic and cultural benefits of building and supporting world class cultural arts institutions.

b. Projects involving the development or rehabilitation of a cultural arts institution facility are inherently beneficial to the State because they provide vital contributions to the communities in which they are located, and together the arts community provides immeasurable economic and cultural benefits to the State.

c. **[**Through a competitive application process, a cultural arts institution will make its case for an amount of tax credits necessary for a project to be able to establish occupancy costs at a competitive level.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

d. The Legislature declares that two principal objectives underscore the policy approach of this legislation: first, that providing spaces for arts and culture to flourish will result in thriving communities; and second, the State must help to provide these spaces through an incentives program that better reflects the economics of arts and culture facilities and that the current suite of real estate programs cannot succeed in this endeavor.

(cf: P.L.2023, c.197, s.2)

2. Section 3 of P.L.2023, c.197 (C.34:1B-385) is amended to read as follows:

3. As used in P.L.2023, c.197 (C.34:1B-383 et al.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by a cultural arts

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AAP committee amendments adopted May 15, 2025.
[2]Senate SBA committee amendments adopted June 26, 2025.

institution. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A cultural arts institution may establish by clear and convincing evidence, as determined by the authority, that control exists in situations involving lesser percentages of ownership if the cultural arts institution shall have control, at a minimum, of all aspects of compliance with this program. An affiliate of a cultural arts institution may contribute to the project cost and may satisfy the requirement for site control during construction and the eligibility period, but in no event shall the tax credit certificate be issued to any affiliate.

"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 by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Cultural arts institution" means a governmental entity or nonprofit or governmental economic or community development entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, operating on a not-for-profit basis, and having [2][the] a[2] [primary] mission [2][and specific policy goal][2] of [2], or experience in,[2] cultural, educational, or artistic enrichment of the people of this State. A "cultural arts institution" shall include a for-profit business seeking a tax credit for a cultural arts institution facility open to the public provided that the cultural arts institution facility is receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). A “cultural arts institution” shall include [2][the National Park Service] any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts[2] . A “cultural arts institution” shall also include a developer that has a partnership agreement with [2][any of the foregoing] the National Park Service[2] .

"Cultural arts institution facility" means an existing or proposed facility within this State, operated and maintained by a cultural arts institution [2]or the National Park Service[2]. A "cultural arts institution facility" includes, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, [2]war memorial or museum,[2] or any related facility that is principally for the support and benefit of any of the foregoing.

"Cultural arts project" means a capital project for the construction or improvement of a cultural arts institution facility that is located in the State for which a cultural arts institution is to be awarded tax credits by the authority under the program pursuant to a tax credit agreement, provided that the project for which the tax credits are awarded will result in a capital investment of at least $5,000,000.

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

"Eligibility period" means the period during which a cultural arts institution may claim, sell, transfer, or otherwise use a tax credit under the program, beginning with the tax period in which the authority accepts certification of the cultural arts institution that it has met the capital investment requirements of the program and extending thereafter for a term of at least five years.

"Eligible position" means a full-time position in an entity in this State which the entity has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156, 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.

"New full-time job" means an eligible position created by a cultural arts institution at a cultural arts project that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the cultural arts institution.

["Operating reserve" means an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.**]**

"Program" means the Cultural Arts Incentives Program established pursuant to section 4 of P.L.2023, c.197 (C.34:1B-386).

"Project cost" means the costs incurred in connection with a cultural arts project by a cultural arts institution until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein,

including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs, and the cost of infrastructure improvements, including ancillary infrastructure projects. The fees associated with the application or administration of tax credits under P.L.2023, c.197 (C.34:1B-383 et al.) shall not constitute a project cost. [2][The project cost shall not include costs incurred by a cultural arts institution for construction activities undertaken prior to the date of application for the program.][2]

"Project financing gap" means the part of the total project 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 capital contributed by the cultural arts institution, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans; provided, however, that for a cultural arts project located in a government-restricted municipality, the capital contributed by the cultural arts institution shall not be less than 10 percent of the total project cost.

"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.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 8 of P.L.2023, c.197 (C.34:1B-390) between the authority and a cultural arts institution.

"Work First New Jersey program" means the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

(cf: P.L.2023, c.197, s.3)

3. Section 4 of P.L.2023, c.197 (C.34:1B-386) is amended to read as follows:

4. a. The Cultural Arts Incentives Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The board shall certify an eligible cultural arts institution based on the requirements of section 5 of P.L.2023, c.197 (C.34:1B-387), and may approve the award of a tax credit to a cultural arts institution pursuant to the provisions of P.L.2023, c.197 (C.34:1B-383 et al.). The value of all tax credits approved by the authority to cultural arts institutions under the program shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). Any tax credit awarded under the program may be

utilized by a cultural arts institution for the same project in conjunction with a tax credit award made pursuant to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); provided, however, that any tax credit awarded under the program shall not be considered to be developer contributed capital for the purposes of calculating the project financing gap for an incentive award under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

b. (1) The authority shall administer the program to incentivize the establishment of cultural arts projects by a cultural arts institution independently or in collaboration with one or more governmental entities. A cultural arts project involving the development or rehabilitation of a cultural arts institution facility shall be eligible for a tax credit award in an amount not to exceed 100 percent of eligible project costs**[**, except, in the case of a cultural arts institution operating on a not-for-profit basis, the tax credit award may include up to 100 percent of such cultural arts institution's appropriate operating reserve as determined by the authority**]**. The value of tax credits approved by the authority under the program for a cultural arts project shall not exceed $75,000,000 per cultural arts project.

(2) (a) A cultural arts institution shall sell and transfer the tax credits awarded under the program, or adopt a plan to use such tax credits in order to finance the completion of the cultural arts project. A cultural arts institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an equity investment in, or secure other financial support for, the cultural arts project that will permit the cultural arts institution to develop the cultural arts project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the cultural arts project. The authority shall evaluate each proposed cultural arts project to determine the likelihood of the project's success. A cultural arts institution shall submit to the authority an independent market study showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful. The authority may procure third party consultants to determine a project's likelihood of success.

(b) Consistent with an applicable tax credit agreement, a tax credit awarded to a cultural arts institution may be applied against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(cf: P.L.2023, c.197, s.4)

4. Section 5 of P.L.2023, c.197 (C.34:1B-387) is amended to read as follows:

5. a. A cultural arts institution shall be eligible to receive a tax credit under the program only if the cultural arts institution is eligible pursuant to subsection b. of this section and submits a program application to the authority that results in completion of a cultural arts project.

b. At the time of application, a cultural arts institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed cultural arts project will result in a capital investment of at least $5,000,000 [2], which may include, for a project for which an applicant has commenced construction before the submission of an application, costs incurred before the date of application, provided that such costs would have otherwise qualified as project costs[2];

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete the cultural arts project and then , unless the cultural arts institution facility is to be operated by the National Park Service [2][or a developer that has a partnership agreement with the cultural arts institution]2, operate the cultural arts [project] institution facility;

(3) that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless:

(a) the authority determines that the cultural arts project would not be completed without an award of tax credits under the program; or

(b) the construction activities are limited to general maintenance, [2][necessary repairs,]2 demolition, environmental assessment, environmental investigation, and environmental remediation;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the cultural arts institution to finance the establishment of the cultural arts project;

(5) the total aggregate value of the tax credits for the entire eligibility period that is necessary in order for the cultural arts institution to finance the establishment of the cultural arts project;

(6) that the cultural arts project shall comply with the standards established by the authority through regulation based on 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 in order to reduce environmental degradation and encourage long-term cost reduction;

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

(8) a description of the significant economic, social, planning, employment, and other benefits that would accrue to the State, county, or municipality from the cultural arts project;

(9) that during the eligibility period, each worker employed to perform construction work and building services work at the cultural arts 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.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the cultural arts project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to construction work and building services work at the entire facility. In the event the cultural arts project constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(10) that [2]**[**during the eligibility period,**]** , unless the cultural arts institution facility is to be operated by the National Park Service,[2] the cultural arts institution shall [2]**[**partner with one or more local community organizations that provide**]** either:

(a) provide[2] support and services to Work First New Jersey program recipients [2]**[**, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients, which activities and services may include, but shall not be limited to: work-study programs, internships, sector-based contextualized literacy training, skills-based training in growth industries in the State, and job retention and advancement services**]** during the eligibility period; or

(b) have provided support and services to Work First New Jersey program recipients on or after December 21, 2023[2];

(11) that the timing of the award of tax credits under the program shall allow for the successful completion and operation of the cultural arts project demonstrated through an independent market study submitted by the applicant showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful; and that the cultural arts institution has a strong prior track record of success or an independent analysis demonstrates that a newly formed cultural arts institution will be successful;

(12) a project financing gap exists, or the authority determines that the cultural arts project will generate a below market rate of return. The authority shall evaluate past and projected fundraising efforts of the cultural arts institution to determine whether a project financing gap exists;

(13) that, unless the cultural arts institution facility is to be operated by the National Park Service [2]**[**or a developer that has a partnership agreement with the cultural arts institution**]**[2], the cultural arts institution will have ownership of, or lease space in, the cultural arts institution facility and operate or hold an operating agreement for at least the eligibility period; and

(14) that the cultural arts institution will have at least 20 percent equity in the cultural arts project, which equity interest may include

amounts contributed through government grants, not including economic subsidies provided by the authority, received by the cultural arts institution; provided, however, for a cultural arts project located in a government-restricted municipality, the equity required shall not be less than 10 percent.

c. Prior to the board considering an application submitted by a cultural arts institution, 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 cultural arts institution 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. The cultural arts institution shall certify that any contractors or subcontractors that will perform work at the cultural arts 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 authority may also contract with an independent third party to perform a background check on a cultural arts institution.

(cf: P.L.2023, c.197, s.5)

5. Section 7 of P.L.2023, c.197 (C.34:1B-389) is amended to read as follows:

7. a. The authority shall **[**award tax credits under the program through a competitive application process consisting of at least one award round each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website**]** <u>conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may implement a competitive application process whereby the authority shall evaluate all applications submitted by a date certain as if all were submitted on that date</u>.

b. **[**The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for cultural arts projects that satisfy the criteria set forth in sections 5 through 7 of P.L.2023, c.197 (C.34:1B-387 through 34:1B-389) in a given award round shall be ranked on the basis of a scoring system developed by the authority, in consultation with the New Jersey State Council on the Arts. Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that each

applicant is required to attain to be eligible for a tax credit.**]** To receive a tax credit award, a cultural arts institution shall be required to meet a minimum score, as determined by the authority pursuant to this section.

c. The scoring system developed by the authority pursuant to **[**subsection b. of**]** this section shall assess applications for tax credits based on **[**competitive**]** criteria, which shall include, but shall not be limited to:

(1) the amount of tax credits requested by the cultural arts institution compared to the amount of tax credits required for the completion of the cultural arts project;

(2) how the cultural arts project will advance State, regional, and local goals concerning the development of arts and cultural facilities in underserved communities;

(3) the relationship of the cultural arts project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(4) the degree to which the cultural arts project enhances and promotes job creation and economic development;

(5) the extent of economic and related social distress in the municipality and the immediate area surrounding the cultural arts project, including whether the cultural arts project is located in a qualified incentive tract or other areas of the State identified from time to time by the authority in rules;

(6) the quality and number of new full-time jobs that will be created by the cultural arts institution; and

(7) if the cultural arts institution has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the cultural arts project is located.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting **[**competitive**]** the criteria required under the program when necessary to respond to conditions in the State.

e. Prior to the award of 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 cultural arts institution 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 cultural arts institution and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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. Provided that all parties are in compliance with this subsection, the authority shall allocate tax credits to cultural arts projects according to the cultural arts projects' scores and until either the available tax credits are exhausted or all cultural arts projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible cultural arts projects, a cultural arts project may be offered a partial tax credit valued at less than what is provided for in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386).

f. Applications that do not receive the minimum score established by the authority **[**for that award round**]** shall not receive further consideration for a tax credit by the authority **[**in that award round**]** for that application; however, a cultural arts institution may **[**revise or complete**]** submit a new application **[**to be submitted in a subsequent award round**]**.

g. **[**If a cultural arts institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

(cf: P.L.2023, c.197, s.7)

6. Section 8 of P.L.2023, c.197 (C.34:1B-390) is amended to read as follows:

8. a. Following approval and selection of an application pursuant to sections 6 and 7 of P.L.2023, c.197 (C.34:1B-388 and 34:1B-389), the authority shall enter into a tax credit agreement with the cultural arts institution.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the cultural arts institution and specify the duration of the eligibility period, which shall be no less than five years and shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the cultural arts project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the cultural arts institution provides executed financing commitments to the authority and a verification of the cultural arts institution's projected cash flow at the time of certification that the project is completed;

(2) specify that the authority or the State may purchase tax credits offered for sale by a cultural arts institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(3) at a minimum, require a cultural arts institution to provide oversight of the cultural arts project through ongoing reporting by the cultural arts institution to the authority;

(4) specify other measures through which the authority shall ensure oversight of outstanding tax credits, and, in the event that a cultural arts institution fails to meet its obligations under the tax credit agreement or any program requirement, including any representations made by the cultural arts institution during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, establish the right of the authority to reduce, rescind, or recapture tax credits in the authority's discretion; and

(5) at a minimum, require that the cultural arts institution adopt specific nondiscrimination policies for the operation of a cultural arts project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the cultural arts institution. As part of the authority's review of the annual reports required from each cultural arts institution, the authority shall confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the cultural arts institution is in substantial good standing with the respective department, or has entered into an agreement with such department that includes a practical corrective action plan for the cultural arts institution; and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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 tax credit agreement shall include a provision that the cultural arts institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement, or the cultural arts institution is neither in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury nor has entered into a practical corrective action plan. The

tax credit agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting requirement.

e. A cultural arts institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The cultural arts institution, or an authorized agent of the cultural arts institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

(cf: P.L.2023, c.197, s.8)

7. Section 9 of P.L.2023, c.197 (C.34:1B-391) is amended to read as follows:

9. a. Up to the limits established in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386), and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the cultural arts project, or upon any other event evidencing project completion as set forth in the tax credit agreement, a cultural arts institution of such approved cultural arts project shall be awarded a tax credit. No more than the amount of tax credits equal to the total credit amount awarded under the program divided by the duration of the eligibility period in years may be taken in any tax period.

b. A cultural arts institution that is awarded a tax credit under P.L.2023, c.197 (C.34:1B-383 et al.) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the cultural arts institution is aware of any condition, event, or act that would cause the cultural arts institution not to be in compliance with the tax credit agreement, the representations made to the authority during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, or the provisions of P.L.2023, c.197 (C.34:1B-383 et al.) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The cultural arts institution or an authorized agent of the cultural arts institution shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

c. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the cultural arts institution and the Director of the Division of Taxation in the Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the cultural arts institution, that the cultural arts institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 10 of P.L.2023, c.197 (C.34:1B-392); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the cultural arts project, if that use is in accordance with rules and regulations adopted by the authority to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the cultural arts institution and the authority to provide the cultural arts institution with a tax credit transfer certificate, as described in section 10 of P.L.2023, c.197 (C.34:1B-392), or a tax credit certificate for the value awarded by the authority for that year that the cultural arts institution may use as provided in paragraph (1) of this subsection and in accordance with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.

(cf: P.L.2023, c.197, s.9)

8. Section 10 of P.L.2023, c.197 (C.34:1B-392) is amended to read as follows:

10. a. A cultural arts institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the cultural arts institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than $25,000, in the privilege period during which the cultural arts institution receives the tax credit transfer certificate from the director, to another person who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The cultural arts institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the cultural arts institution of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a cultural arts institution by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to P.L.2023, c.197 (C.34:1B-383 et al.) and any other terms and conditions that the director may prescribe; provided, however, that the holder of a tax credit certificate may transfer all or part of the tax credit amount, on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, **[**and the**]** in the tax period in which it was issued, or in any of the next three successive tax periods. The transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. A transferee

may carry forward 【all or part of the tax】 an unused credit 【amount】 for use in any of the next five successive tax periods, and the unused credit shall expire thereafter. Notwithstanding any provision of this section to the contrary, the amount of tax credits that may be claimed by the transferee in any tax period shall not exceed the total tax credit amount divided by the duration of the eligibility period in years.

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

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

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

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

(5) the consideration received by the transferor.

(cf: P.L.2023, c.197, s.10)

9. Section 11 of P.L.2023, c.197 (C.34:1B-393) is amended to read as follows:

11. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L.2023, c.197 (C.34:1B-383 et al.), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L. , c. (pending before the Legislature as this bill), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations

in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
(cf: P.L.2023, c.197, s.11)

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

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

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

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

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

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

awarded over the entirety of the nine-year period shall not exceed $300,000,000;

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

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

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.), pursuant to subparagraph (k) of this paragraph **[2]**, cultural arts institutions awarded a tax credit pursuant to the "Cultural Arts Incentives Program Act," P.L.2023,

c.197 (C.34:1B-383 et al.), pursuant to subparagraph (l) of this paragraph[2], or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

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

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an

amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

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

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

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.)**[2]**; and

(l) beginning in fiscal year 2026, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for cultural arts institutions awarded a tax credit pursuant to the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.)[2].

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

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

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

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

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

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

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

(vii) increased development proximate to mass transit facilities;

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

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

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f)

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

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

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

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

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

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

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

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

al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345).

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

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321);**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

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

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

(cf: P.L.2020, c.156, s.89)**]**[1]

[1]11. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

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

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

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

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

12. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

1. a. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance that is approved, funded, authorized, administered or provided by the authority to any entity and is provided before, during or after completion of a project, including but not limited to, all authority financial assistance received by the entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

b. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any contract, for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work in connection with the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this subsection shall apply to any site preparation work performed 24 months prior to and during the incentive eligibility period of any project receiving tax credits under the **[**"New Jersey Community-Anchored

Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in which there is a continuity of ownership in the site of the redevelopment project, including work undertaken to fulfill any condition of receiving tax credits under the programs. Work that is subject to the requirements of this subsection shall include the performance of any contract for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work undertaken on a facility for operations which are necessary for the receipt of tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the tax credit and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and subcontractors subject to the prevailing wage requirement set forth in this section shall be registered with the Department of Labor and Workforce Development pursuant to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its application that all construction contracts undertaken on any project in connection with an award under the programs comply with the prevailing wage requirements of this subsection. If at any time the authority determines that the developer made a material misrepresentation regarding compliance with the provisions of this subsection on the developer's application, the developer shall forfeit 35 percent of the tax credits allowed under the programs, and pay to the affected workers back

wages in an amount that compensates the workers at the prevailing wage rate for the work performed.
(cf: P.L.2020, c.156, s.112)

[2]13. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to read as follows:

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

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

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

"Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center, and the Trenton-Mercer Airport, established pursuant to R.S.40:8-2 and the area within a one-mile radius of the outermost boundary of the Trenton-Mercer Airport.

"Board" means the Board of the New Jersey Economic Development Authority, established by 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).

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

"Collaborative workspace" means coworking, accelerator, incubator, or other shared working environments that promote collaboration, interaction, socialization, and coordination among tenants through the clustering of multiple businesses or individuals. For this purpose, the collaborative workspace shall be the greater of: 2,500 of dedicated square feet or 10 percent of the total property on which the redevelopment project is situated. The collaborative workspace shall include a community manager, be focused on collaboration among the community members, and include regularly scheduled education events for the community members. The

collaborative workspace shall also include a physical open space that supports the engagement of its community members.

"Commercial project" means a redevelopment project, which is predominantly commercial and, if located in a government-restricted municipality, contains 25,000 or more square feet, or if located in any other municipality, contains 50,000 or more square feet of office and retail space, industrial space, or film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, and may include a parking component. The term "commercial project" includes a redevelopment project comprised solely of a health care or health services center, which contains not less than 10,000 square feet devoted to health care or health services, and which may include a parking component. The term "commercial project" also includes an industrial space that is predominantly used for warehouse distribution or fulfillment centers if the eligible project cost includes at least $10,000,000 in environmental remediation costs.

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

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

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

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

"Eligibility period" means the period not to exceed 10 years, as specified in an incentive award agreement during which a developer may claim a tax credit under the program, as such period shall be determined by the authority pursuant to subsection b. of section 60 of P.L.2020, c.156 (C.34:1B-328), provided that a developer may elect a period not to exceed five years for a project located in a government-restricted municipality or for a special mission non-profit project.

"Enhanced area" means (1) a municipality that contains an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208);

(2) the five municipalities with the highest poverty rates according to the 2017 Municipal Revitalization Index; and (3) the three municipalities with the highest percentage of SNAP recipients according to the 2017 Municipal Revitalization Index.

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

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

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

"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. The term "government-restricted municipality" also includes any municipality that: has a population greater than 50,000 and less than 60,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 800,000 according to the latest federal decennial census, and has an MRI distress score of 62.1; has a population greater than 70,000 and less than 100,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 515,000 and less than 525,000 according to the latest federal decennial census, and has an MRI distress score of 100; or contains the intersection of Interstate 280 and the Garden State Parkway, and corresponding land areas occupied by such highways under the ownership or control of the federal government of the United States or of this State within its municipal boundary, and has an MRI distress score of 55.5.

"Health care or health services center" means an establishment that consists of not less than 10,000 square feet devoted to health care or health services, where patients are admitted for or seek examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, and which is located in a municipality with an MRI distress score of at least 50, a distressed municipality, or a qualified incentive tract, or is located on land owned by the federal government of the United States on or before December 31, 2005.

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

"Incentive area" means an aviation district; a port district; an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated Center under the State Development and Redevelopment Plan; an area designated as a brownfield site pursuant to the "Brownfield and Contaminated Site Remediation Act," sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.); and an area of not less than 100 acres for which a licensed site remediation professional has certified environmental remediation costs, as defined in this section and in accordance with the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), in an amount not less than $10,000,000, provided that any portion of such area is located in an area that otherwise qualifies as an incentive area.

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

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

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

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

"Labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment, hospitality 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, hospitality 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, hospitality establishment, or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third party that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail establishment, hospitality establishment, or distribution center employees in the State.

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

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

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

"Minimum environmental and sustainability standards" means 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.

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

"MRI distress score" means a municipal revitalization index distress score, as documented in the 2023 Municipal Revitalization Index developed by the Department of Community Affairs.

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

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

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

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

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

"Project cost" or " eligible project cost" means the costs incurred in connection with a redevelopment project by a developer until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, except the cost of acquiring such lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs and the cost of infrastructure improvements, including ancillary infrastructure projects. When 100 percent of the residential units constructed in a residential project are reserved for occupancy by low- and moderate-income households, the term "project cost" shall also include the developer fees paid before acquiring permanent financing, as well as the deferred developer fees approved pursuant to the rules established by the agency. In addition to the foregoing, the term "project cost" shall include, for a redevelopment project located in a government-restricted municipality, land costs in an amount not to exceed 20 percent of the eligible project

cost. The fees associated with the application or administration of a grant under sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall not constitute a project cost.

"Project financing gap" means the part of the total project 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 project 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 on a non-recourse basis, 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 total project cost. 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: (i) the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or (ii) the value as determined by a current appraisal.

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

"Qualified incentive tract" means a population census tract having a poverty rate of 20 percent or more or 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.

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

"Reasonable and appropriate return on investment" means the discount rate at which the present value of the future cash flows of an investment equals the cost of the investment. In determining the "reasonable and appropriate return on investment," an investment shall not include any federal, State, or local tax credits. For a residential project that utilizes federal low-income housing tax credits awarded by the agency, the "reasonable and appropriate return on investment" shall be based on the approval of deferred developer fees pursuant to the rules established by the agency. In the event that a residential

project, which utilizes federal low-income housing tax credits awarded by the agency, generates returns on equity other than federal or local grants or proceeds from the sale of federal or local tax credits, the "reasonable and appropriate return on investment" shall be based on both the discount rate at which the present value of the future cash flows of an investment equal the cost of the investment for the entire project, and when evaluating only the units financed with federal low-income housing tax credits awarded by the agency, the approval of deferred developer fees pursuant to the rules established by the agency.

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

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

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

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

"Special mission non-profit project" means a project located in a government-restricted municipality or in an enhanced area that: serves a special mission, as determined by the authority, to accomplish the public purpose of a non-profit that is a developer of or is affiliated with the project and includes no more than 100 units of 100 percent supportive housing units for tenants requiring special needs or social services, which social services may include licensed social workers, and no more than 25,000 square feet of commercial space for the provision of on-site social service programs that require a license from the Department of Children and Families as a licensed child care center. Special mission non-profit projects shall be exempt from the net benefit test requirement, affordable housing requirements, and the requirement to provide a market study as part of its application to the authority.

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

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

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

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

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

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force.[2]

(cf: P.L.2025, c.2, s.1)

[2]14. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to read as follows:

65. a. As used in this section, "transformative project" means a redevelopment project: that has a project financing gap; that has a total project cost of at least $150,000,000; that includes 200,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in a government-restricted municipality, that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, that includes 300,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in an enhanced area, or that includes 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for any other project; and, for a commercial project, that is of special economic importance as measured by the level of new jobs, new capital investment, opportunities to leverage leadership in a high-priority targeted industry, or other state priorities as determined by the authority pursuant to rules and regulations promulgated to implement

this section. Notwithstanding the provisions of subsection b. of section 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located entirely on land designated by the Department of Environmental Protection as a brownfield development area pursuant to section 7 of P.L.2005, c.223 (C.58:10B-25.1), and the eligible project cost of the redevelopment project includes at least $15,000,000 in environmental remediation costs, the redevelopment project shall constitute a project of special economic importance. For applications submitted on or after the effective date of P.L. , c. (pending before the Legislature as this bill), the redevelopment project shall constitute a project of special economic importance if the redevelopment project is a health care or health services center that: is associated with, and located on, the same complex as a new or existing university, academic, or medical research center, institution, or facility; is an establishment that is associated with a National Cancer Institute Designated Comprehensive Cancer Center that is engaged in cancer research; is a transformative expansion of healthcare services by an academic medical and research center located in a distressed municipality that is adjacent to existing clinical facilities; or is a project located at a State-designated trauma center. A transformative project may be completed in phases, which phases may be determined by the authority based on factors such as written architectural plans and specifications completed before or during the physical work, certificates of occupancy, or financial and operational plans. The criteria developed by the authority shall include, but shall not be limited to:

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

(2) (a) for a residential project, the construction of 700 or more new residential units;

(b) for a mixed-use residential project containing fewer than 700 new residential units:

(i) the construction of 200 or more new residential units if the project is located in a government-restricted municipality, 300 or more new residential units if the project is located in an enhanced area, or 400 or more new residential units for all other mixed-use projects; and

(ii) the construction of 30,000 square feet or more of commercial space, which commercial space may include retail space; and

(c) (Deleted by amendment, P.L.2025, c.2)

(d) for a residential project, 20 percent of the new residential units shall be constructed for occupancy by low- and moderate-income households with affordability controls as adopted by the authority, in consultation with the agency, in accordance with paragraph (2) of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential project receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property

Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), shall be exempt from the affordability controls related to bedroom distribution; and

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

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

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

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

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

(3) Notwithstanding the provisions of section 57 of P.L.2020, c.156 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, a transformative project shall be completed, and the developer shall be issued a certificate of occupancy for the transformative project facilities by the applicable enforcing agency, within five years of executing the incentive award agreement, except that the authority may, in its discretion, extend this deadline by up to one additional year. For transformative projects completed in phases, the transformative project shall be completed, and the developer shall be issued certificates of occupancy for all phases of the transformative project facilities by the applicable enforcing agency, within 10 years of executing either the incentive award agreement or the first transformative phase agreement corresponding to the transformative project.

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

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

(6) A transformative project receiving an incentive award pursuant to this section, other than a project that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms or other infrastructure for film production, shall be located in an incentive area, a distressed municipality, a government-restricted municipality, or an enhanced area. A transformative project receiving an incentive award pursuant to this section that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production may be located anywhere in the State. The authority shall not consider an application for a transformative project unless the applicant submits with its application a letter evidencing support for the transformative project from the governing body of the municipality in which the transformative project is located.

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

award of tax credits is being sought. Projects that are predominantly residential or that qualify as special mission non-profit projects shall be excluded from the calculation of the net benefit test required pursuant to this subsection.

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

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

f. Prior to allocating an incentive award to 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 the developer has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer shall certify that each contractor or subcontractor performing work at the transformative 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 the State; and (3) possesses 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 developer.

g. Notwithstanding the limitation on incentive awards set forth in subsection b. of section 61 and section 98 of P.L.2020, c.156 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may allow a developer of a transformative project a tax credit in an amount not to exceed the lesser of:

(1) (a) (i) 85 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality qualified as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.); or

(ii) 80 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality did not qualify as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.);

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

incentive tract, enhanced area, or a municipality with a Municipal Revitalization Index score of at least 50; or

(c) 50 percent of the eligible project cost for any other transformative project;

(2) the total value of the project financing gap; or

(3) $400,000,000 except that for a transformative project that is developed in phases, the $400,000,000 limitation on incentive awards set forth in this paragraph shall apply to the total aggregate award for all phases of the transformative project.[2]

(cf: P.L.2025, c.2, s.8)

[2]15. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to read as follows:

6. a. (1) The combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013 shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), there shall be no monetary cap on the value of credits approved by the authority attributable to the program pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

(2) (Deleted by amendment, P.L.2013, c.161)

(3) (Deleted by amendment, P.L.2013, c.161)

(4) (Deleted by amendment, P.L.2013, c.161)

(5) (Deleted by amendment, P.L.2013, c.161)

b. (1) A business shall submit an application for tax credits prior to July 1, 2019. The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, 2019.

(2) (a) A business shall submit its documentation indicating that it has met the capital investment and employment requirements and all conditions of approvals specified in the incentive agreement for certification of its tax credit amount, to the authority's satisfaction, within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. If the authority accepts the documentation, the authority shall request that the Division of Taxation in the Department of the Treasury issue a tax credit based on the approved documentation to be used by the business during the eligibility period. Except as provided in subparagraphs (b) and (c) of this paragraph, in no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.

(b) As of the effective date of P.L.2017, c.314, a business which applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149 (C.34:1B-242 et al.), shall submit its documentation to the authority no later than July 28, 2019, indicating that it has met the capital

investment and employment requirements specified in the incentive agreement for certification of its tax credit amount.

(c) If the Governor declares an emergency, then the chief executive officer of the authority shall have the discretion to grant an extension for the duration of the emergency and the board of the authority, upon recommendation of the chief executive officer, may grant two additional six-month extensions; provided that (i) the extensions are due to the economic disruption caused by the emergency; (ii) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (iii) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (iv) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

(3) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(4) A business seeking a credit for a mega project shall apply for the credit within four years after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

c. (1) In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount may be taken by the tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax periods and shall expire thereafter. The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time after the date of issuance for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. In the case of a tax certificate received after the end of the tax period for which the tax certificate was issued, whether by transfer or original issuance, a tax certificate holder or transferee shall not be required to amend the tax return for the tax period for which the tax certificate was issued or any successive tax period if the credit is first applied in the tax period in which it was issued or in a succeeding tax period, as authorized in subsection k. of this section, and subject to the carry-forward provision in this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the eligibility period, in years, may be taken in any tax period.

A business may elect to suspend its obligations for the 2020, 2021, 2022, 2023, or 2024 tax period, or any combination thereof, **[**due to the COVID-19 pandemic,**]** provided that the business shall make such election in writing to the authority **[**before the issuance of the tax credit for the corresponding tax year**]** no later than December 31, 2025

and such suspension shall extend the term of the eligibility period by a corresponding amount of time. The authority shall amend the incentive agreement, and the business shall execute the amended incentive agreement within the time period provided by the authority. The amended incentive agreement shall provide that the failure to submit the annual report due to the suspension shall not be a forfeiture or an uncertified tax period.

(2) Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the Director of the Division of Taxation in the Department of the Treasury accompanied by any additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(4) In order to respond to the profoundly negative impact of the COVID-19 pandemic on the State's economy and finances, the authority may request a tax certificate holder, at the tax certificate holder's discretion, to defer the application of a credit amount allowed pursuant to this section to a later tax period. Upon request, the authority and the tax certificate holder shall negotiate the terms of the deferral, which shall hold the certificate holder harmless, which will be made in the incentive agreement or as an addendum to the incentive agreement.

d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by the incentive agreement has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 80 percent of the number of jobs specified in the incentive agreement.

(3) (a) If the qualified business facility is sold by the owner in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of the business shall remain unaffected.

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease the facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease the facility; (ii) the ownership or leasing of the facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease the facility. The ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. The members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

(4) (a) For a project located within a Garden State Growth Zone, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an increased base credit amount for that tax period and each subsequent tax period, for each additional full-time employee added above the number of full-time employees specified in the incentive agreement, until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount will be adjusted accordingly pursuant to this section.

(b) For a project located within a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which qualifies for a tax credit pursuant to subsubparagraph (ii) of subparagraphs (a) through (e) of paragraph (6)

of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the total tax credit amount per full-time job by using the certified capital investment of the project allowable under the applicable subsubparagraph and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount shall be adjusted accordingly pursuant to this section.

e. The authority shall not enter into an incentive agreement with a business that has previously received incentives pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other program administered by the authority unless:

(1) the business has satisfied all of its obligations underlying the previous award of incentives or is compliant with section 4 of P.L.2011, c.149 (C.34:1B-245); or

(2) the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

f. A business which has already applied for a tax credit incentive award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the tax credits, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

g. A business that has entered into an incentive agreement may request before December 31, 2024 to terminate the incentive agreement, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2024, due to the COVID-19 public health emergency; provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due, directly or indirectly, to the public health emergency and describing the impact of the public health emergency on the business. All credits for the tax period in which the termination occurs and all subsequent tax periods shall be forfeited,

provided however that any credits of the business shall remain unaffected. A termination agreement executed by the authority and business shall not be amended.

h. A business that has entered into an incentive agreement may request, before December 31, 2024, to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification of the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period, provided that the business maintains the minimum number of new or retained full-time jobs required to be eligible pursuant to subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in employment shall first apply to the number of new full-time employees, and then shall apply to the number of retained full-time employees.

The authority shall calculate a new tax credit total amount for the 2020 tax period and the remainder of the eligibility period based on the reduced employment and shall amend the incentive agreement to reflect the recalculated award amount. In no event shall the modification result in an increase in employment or tax credit amount.

i. Following the termination of the public health emergency declared by the Governor pursuant to Executive Order No. 103 of 2020, as extended, a business that has entered into an incentive agreement may elect, before March 31, 2024, to waive, for the period beginning on July 1, 2022 and ending on March 31, 2024, the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility; provided, however, that a business that makes such an election shall satisfy the following criteria:

(1) any full-time employee employed by the business shall spend at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period and, if elected by the business, the 2024 tax period through March 31, 2024; and

(2) following the receipt by the business of its tax credit certificate or tax credit transfer certificate for the 2022 tax period, the business shall make a payment of an amount equal to five percent of the amount of tax credit the business receives for the 2022 tax period through March 31, 2024, which payment shall be made to the authority, and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within the municipality in which the qualified business facility is located, as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

j. Notwithstanding the provisions of section 2 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation to the contrary, beginning on April 1, 2024, and for all subsequent tax periods, a business located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337) that has entered into an incentive agreement with the authority may elect to waive the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility, provided, however, that a business that makes this election shall satisfy the following criteria:

(1) for a qualified business facility located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time employee employed by the business shall spend at least 40 percent of the employee's time at the qualified business facility during the tax period;

(2) the business shall extend by two years the term of its commitment period beyond the time set forth in the incentive agreement; and

(3) at the time the business submits its tax credit certificate certification for the tax period, the business shall make a non-refundable payment of an amount equal to 10 percent of the amount of the maximum annual tax credit that the business is eligible to receive for the tax period, which payment shall be made to the authority and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

k. Notwithstanding the provisions of any law to the contrary, the credit amount may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the commitment period set forth in the incentive agreement. The tax certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without being required to amend the tax return for the taxpayer for which the credit was issued, subject to the provisions of this section. Notwithstanding

the foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

l. Notwithstanding the provisions of subsection b. of this section or any law or regulation to the contrary, a business that has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134 may request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement, provided the business certifies that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period.[2]

(cf: P.L.2024, c.40, s.4)

[2][13.] 16.[2] Sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) are repealed.

[2][14.] 17.[2] This act shall take effect immediately.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5378

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 2025

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5378.

As amended and reported, this bill expands eligibility under the Cultural Arts Incentives Program (program), authorizes the New Jersey Economic Development Authority (authority) to accept applications on a rolling basis, and revises certain provisions concerning tax credits awarded under the program.

Applicant Eligibility

Under current law, certain entities that qualify as a "cultural arts institution" may apply for tax credits to finance the development or rehabilitation of a cultural arts institution facility under the program. Among other requirements to be eligible for tax credits, a cultural arts institution is required to: (1) have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State; (2) operate and maintain the cultural arts institution facility; and (3) own or lease space in the cultural arts institution facility.

This bill amends current law to provide an exception to the requirement that a cultural arts institution have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State. Under the bill, an entity may qualify as a cultural arts institution so long as any part of the entity's mission and specific policy goals addresses the cultural, educational, or artistic enrichment of the people of this State. The bill also expands the scope of cultural arts institutions to include the National Park Service, as well as any developer that has a partnership agreement with an entity that qualifies as a cultural arts institution.

The bill also amends current law to provide an exception to the requirements that a cultural arts institution operate and maintain, and either own or lease space in, the cultural arts institution facility. Under the bill, these requirements do not apply if the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution.

Additionally, the bill amends the definition of "cultural arts institution facility" under current law to include, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, or any related facility that is principally for the support and benefit of any of the foregoing.

Operating Reserve

This bill removes a provision of current law that authorizes the authority to award to certain cultural arts institutions, in addition to the tax credit award otherwise provided for under the program, a tax credit valued at up to 100 percent of an operating reserve, as determined by the authority. Current law defines an "operating reserve" to mean an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.

Construction Prior to Application Date

Under current law, an applicant is required to demonstrate that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless the authority determines that the cultural arts project would not be completed without an award of tax credits under the program.

This bill amends this requirement to permit some construction prior to the submission of an application, provided that the construction activities are limited to general maintenance, necessary repairs, demolition, environmental assessment, environmental investigation, and environmental remediation. The bill also amends the definition of "project cost" to exclude costs incurred for construction activities prior to the date of a cultural arts institution's application under the program.

Application Process

Current law requires the authority to implement a competitive application process for the program. Instead, this bill requires the authority to conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may instead implement a competitive application process whereby the authority is required to evaluate all applications submitted by a date certain as if all were submitted on that date.

Use of Transferred Tax Credits

Under current law, the transferee to whom a tax credit certificate is transferred under the program may carry forward all or part of the tax credit amount in any of the next five successive tax periods.

This bill amends this provision to permit a transferee to use the credit in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. Under the bill, the transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in the bill, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. The transferee may carry forward an unused credit for use in any of the next five successive tax periods, and the unused credit expires thereafter.

Repeal of New Jersey Community-Anchored Development Act

Under current law, a total of $1.2 billion tax credits may be awarded under the program and the New Jersey Community-Anchored Development Program. The authority is scheduled to begin accepting applications under the New Jersey Community-Anchored Development Program in 2026.

This bill repeals the New Jersey Community-Anchored Development Act that established the New Jersey Community-Anchored Development Program.

COMMITTEE AMENDMENTS:

The committee amendments provide technical changes to the bill to update the underlying statute in light of a recent enactment of law.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill would result in an indeterminate State fiscal impact. Specifically, the bill expands eligibility under the Cultural Arts Incentives Program administered by the New Jersey Economic Development Authority and eliminates the allowance for additional tax credits to be awarded under the Cultural Arts Incentives Program to support the operating reserves of certain non-profit institutions. The bill also eliminates the New Jersey Community-Anchored Development Program.

On balance, the OLS is unable to determine the fiscal impact of the bill on State revenues as it depends on several factors, including the number of newly eligible applicants under the expanded eligibility criteria for the Cultural Arts Incentives Program, the offsetting effect of eliminating the operating reserve tax credit provision for nonprofits, and the overall utilization of the Cultural Arts Incentives Program.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]
ASSEMBLY, No. 5378

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2025

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5378 (1R).

As amended and reported, this bill expands eligibility under the Cultural Arts Incentives Program (program), authorizes the New Jersey Economic Development Authority (authority) to accept applications on a rolling basis, and revises certain provisions concerning tax credits awarded under the program. The bill also revises certain provisions of law related to the New Jersey Aspire Program (Aspire Program).

Applicant Eligibility

Under current law, certain entities that qualify as a "cultural arts institution" may apply for tax credits to finance the development or rehabilitation of a cultural arts institution facility under the program. Among other requirements to be eligible for tax credits, a cultural arts institution is required to: (1) have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State; (2) operate and maintain the cultural arts institution facility; and (3) own or lease space in the cultural arts institution facility.

This bill amends current law to provide an exception to the requirement that a cultural arts institution have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State. Under the bill, an entity may qualify as a cultural arts institution so long as the entity has a mission of, or experience in, cultural, educational, or artistic enrichment of the people of this State. The bill also expands the scope of cultural arts institutions to include any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts, as well as any developer that has a partnership agreement with the National Park Service.

Additionally, the bill amends the definition of "cultural arts institution facility" under current law to include, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, war

memorial or museum, or any related facility that is principally for the support and benefit of any of the foregoing.

The bill also amends current law to provide an exception to the requirements that a cultural arts institution operate and maintain, and either own or lease space in, the cultural arts institution facility. Under the bill, these requirements do not apply if the cultural arts institution facility is to be operated by the National Park Service.

Operating Reserve

This bill removes a provision of current law that authorizes the authority to award to certain cultural arts institutions, in addition to the tax credit award otherwise provided for under the program, a tax credit valued at up to 100 percent of an operating reserve, as determined by the authority. Current law defines an "operating reserve" to mean an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.

Construction Prior to Application Date

Under current law, an applicant is required to demonstrate that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless the authority determines that the cultural arts project would not be completed without an award of tax credits under the program.

This bill amends this requirement to permit some construction prior to the submission of an application, provided that the construction activities are limited to general maintenance, demolition, environmental assessment, environmental investigation, and environmental remediation. Furthermore, if an applicant has commenced construction on a project before the submission of an application, the bill authorizes the applicant to include, within the required minimum $5 million capital investment for a proposed cultural arts project, costs incurred before application that would have otherwise qualified as project costs.

Application Process

Current law requires the authority to implement a competitive application process for the program. Instead, this bill requires the authority to conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may instead implement a competitive application process whereby the authority is required to evaluate all applications submitted by a date certain as if all were submitted on that date.

Under current law, an application is required to demonstrate that a cultural arts institution will partner with one or more local community organizations that provide support and services to Work

First New Jersey program recipients, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients. The bill amends this provision to require instead that an application demonstrate, unless the cultural arts institution facility is to be operated by the National Park Service, that the cultural arts institution either: (1) will provide support and services to Work First New Jersey program recipients during the eligibility period; or (2) has provided support and services to Work First New Jersey program recipients on or after December 21, 2023.

Use of Transferred Tax Credits

Under current law, the transferee to whom a tax credit certificate is transferred under the program may carry forward all or part of the tax credit amount in any of the next five successive tax periods.

This bill amends this provision to permit a transferee to use the credit in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. Under the bill, the transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in the bill, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. The transferee may carry forward an unused credit for use in any of the next five successive tax periods, and the unused credit expires thereafter.

New Jersey Aspire Program Revisions

Under current law governing the Aspire Program, the term "health care or health services center" is defined as an establishment that consists of not less than 10,000 square feet devoted to health care or health services, where patients are admitted for or seek examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, and which is located in a municipality with a Municipal Revitalization Index (MRI) distress score of at least 50, a distressed municipality, or a qualified incentive tract. This bill expands this definition to additionally include such an establishment that is located on land owned by the federal government of the United States on or before December 31, 2005.

This bill also provides that, for applications submitted under the Aspire Program on or after the bill's effective date, a redevelopment project is deemed to constitute a project of special economic importance if the redevelopment project is a health care or health services center that: is associated with, and located on, the same complex as a new or existing university, academic, or medical research center, institution, or facility; is an establishment that is associated with a National Cancer Institute Designated Comprehensive Cancer Center that is engaged in cancer research; is a transformative expansion of healthcare services by an academic medical and research center located in a distressed

municipality that is adjacent to existing clinical facilities; or is a project located at a State-designated trauma center.

Availability of Certain Uncommitted Tax Credits

The bill provides that if the authority awards less than the annual limitation of tax credits allocated for the Aspire Program and the Emerge Program, not including transformative projects, then up to $500 million of the uncommitted credits may also be made available to cultural arts institutions awarded a tax credit pursuant to the Cultural Arts Incentives Program Act, among other purposes for which the authority may use such uncommitted credits under current law.

Grow New Jersey Program

Under current law, a business may elect to suspend certain Grow New Jersey Program obligations for the 2020, 2021, 2022, 2023, or 2024 tax period, or any combination thereof, due to the COVID-19 pandemic, provided that the business makes such election in writing to the authority before the issuance of the tax credit for the corresponding tax year. This bill extends that deadline so that a business may suspend those obligations, provided that the business make such election in writing to the authority no later than December 31, 2025, without a requirement that the suspended obligations for the 2020, 2021, 2022, 2023, or 2024 tax period be due to the COVID-19 pandemic.

Repeal of New Jersey Community-Anchored Development Act

Under current law, a total of $1.2 billion in tax credits may be awarded under the program and the New Jersey Community-Anchored Development Program. The authority is scheduled to begin accepting applications under the New Jersey Community-Anchored Development Program in 2026.

This bill repeals the New Jersey Community-Anchored Development Act that established the New Jersey Community-Anchored Development Program.

As amended and reported by the committee, Assembly Bill No. 5378 (1R) is identical to Senate Bill No. 4255 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) expand the definition of "cultural arts institution" to include any entity that has a mission of, or experience in, cultural, educational, or artistic enrichment of the people of this State, rather than having the mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State;

(2) include within the definition of a "cultural arts institution" any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts, as well as any developer that has

a partnership agreement with the National Park Service. The amendments also remove language that would have included the National Park Service within this definition;

(3) expand the definition of "cultural arts institution facility" to include a national historic park and a war memorial or museum;

(4) remove a provision of the bill that would have amended the current definition of "project cost" to exclude costs incurred by a cultural arts institution for construction activities undertaken prior to the date of application for the program;

(5) permit a cultural arts institution to include costs incurred before the date of application within the required minimum $5 million capital investment for a proposed cultural arts project, provided that the costs would have otherwise qualified as project costs;

(6) remove language from the bill that would have exempted a cultural arts institution facility to be operated by a developer that has a partnership agreement with the cultural arts institution from the requirement to demonstrate the structure and terms of the financial, corporate, and real estate instruments to be utilized to operate the cultural arts institution facility;

(7) remove "necessary repairs" from the list of construction activities for which an exception is provided to the requirement that construction not have commenced at the site of a cultural arts project prior to submitting an application;

(8) amend a current application requirement to provide that, unless the cultural arts institution facility is to be operated by the National Park Service, demonstrate that the cultural arts institution either: (a) will provide support and services to Work First New Jersey program recipients during the eligibility period; or (b) have provided support and services to Work First New Jersey program recipients on or after December 21, 2023. Under current law, an application is required to demonstrate that during the eligibility period the cultural arts institution will partner with one or more local community organizations that provide support and services to Work First New Jersey program recipients, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients;

(9) remove language from the bill that would have exempted a cultural arts institution facility to be operated by a developer that has a partnership agreement with the cultural arts institution from the requirement to demonstrate that the cultural arts institution will have ownership of, or lease space in, the cultural arts institution facility and operate or hold an operating agreement for at least the eligibility period;

(10) amend the definition of "health care or health services center" under the Aspire Program to mean an establishment that consists of not less than 10,000 square feet devoted to health care or health services, where patients are admitted for or seek examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, and which is located in a municipality with an MRI

distress score of at least 50, a distressed municipality, or a qualified incentive tract, or is located on land owned by the federal government of the United States on or before December 31, 2005. Under current law, location on land owned by the federal government on or before December 31, 2005 is not included in this definition;

(11) provide that, for applications submitted under the Aspire Program on or after the bill's effective date, a redevelopment project is deemed to constitute a project of special economic importance if the redevelopment project is a health care or health services center that: is associated with, and located on, the same complex as a new or existing university, academic, or medical research center, institution, or facility; is an establishment that is associated with a National Cancer Institute Designated Comprehensive Cancer Center that is engaged in cancer research; is a transformative expansion of healthcare services by an academic medical and research center located in a distressed municipality that is adjacent to existing clinical facilities; or is a project located at a State-designated trauma center;

(12) provide that if the authority awards less than the annual limitation of tax credits under the New Jersey Aspire Program and the Emerge Program, then up to $500 million of the uncommitted credits may also be made available to cultural arts institutions awarded a tax credit pursuant to the Cultural Arts Incentives Program Act; and

(13) extend the deadline to suspend certain obligations under the Grow New Jersey Act until December 31, 2025, removing a current requirement that the suspended obligations for the 2020, 2021, 2022, 2023, or 2024 tax period be due to the COVID-19 pandemic.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5378

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: MAY 27, 2025

SUMMARY

Synopsis:	Modifies provisions of Cultural Arts Incentives Program; eliminates Community-Anchored Development Program.
Type of Impact:	Indeterminate impact on State costs. Indeterminate impact on State revenues.
Agencies Affected:	Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	**FY 2025 & Thereafter**
State Expenditure Impact	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill would result in an indeterminate State fiscal impact. Specifically, the bill expands eligibility under the Cultural Arts Incentives Program administered by the New Jersey Economic Development Authority and eliminates the allowance for additional tax credits to be awarded under the Cultural Arts Incentives Program to support the operating reserves of certain non-profit institutions. The bill also eliminates the New Jersey Community-Anchored Development Program.

- The OLS is unable to determine the fiscal impact of the bill on State revenues as it depends on several factors, including the number of newly eligible applicants under the expanded eligibility criteria for the Cultural Arts Incentives Program, the offsetting effect of eliminating the operating reserve tax credit provision for nonprofits, and the overall utilization of the Cultural Arts Incentives Program.

BILL DESCRIPTION

The bill modifies the Cultural Arts Incentives Program and eliminates the Community-Anchored Development Program. The bill modifies the definition of "cultural arts institution" to include entities whose mission addresses cultural, educational, or artistic enrichment, rather than having it be their primary mission. The bill also expands eligibility to include the National Park Service and developers that have a partnership agreement with any qualified cultural arts institution. Additionally, the bill expands the scope of eligible cultural arts institution facilities to include national historical parks and related facilities.

The bill eliminates a provision of current law that allows the authority to award additional tax credits under the Cultural Arts Incentives Program to certain non-profit cultural arts institutions in an amount up to 100 percent of the institution's operating reserve.

The bill also modifies the application process for the Cultural Arts Incentives Program by requiring the authority to conduct a review of applications on a rolling basis, rather than through a competitive application process, unless the authority determines that demand is likely to exceed available tax credits. Finally, the bill eliminates the Community-Anchored Development Program, which has not yet begun accepting applications.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill would result in an indeterminate State fiscal impact. The OLS is unable to determine the magnitude or direction of the bill's fiscal impact as it depends on several factors, including the number of newly eligible applicants under the expanded eligibility criteria for the Cultural Arts Incentives Program, the offsetting effect of eliminating the operating reserve tax credit provision for nonprofits, and the overall utilization of the Cultural Arts Incentives Program.

Specifically, the bill expands eligibility under the Cultural Arts Incentives Program administered by the authority and eliminates the allowance for additional tax credits to be awarded under the Cultural Arts Incentives Program to support the operating reserves of certain non-profit institutions. The bill also eliminates the New Jersey Community-Anchored Development Program.

The expanded eligibility for the Cultural Arts Incentives Program would include entities whose mission addresses cultural, educational, or artistic enrichment rather than requiring it to be their primary mission. The National Park Service and developers with partnership agreements with qualifying cultural arts institutions would also become eligible. Additionally, national historical parks and related facilities would be included in the scope of eligible cultural arts institution facilities. These changes may increase State revenue losses through the issuance of tax credits for projects that would not qualify under current law.

The bill also eliminates the provision allowing the authority to award additional tax credits to non-profit cultural arts institutions based on their operating reserves. Under current law, these institutions can receive tax credits up to 100 percent of their operating reserve, defined as an unrestricted fund balance set aside to stabilize finances against unexpected events, income losses,

or unbudgeted expenses. Eliminating this provision is expected to reduce the maximum value of tax credits awarded to certain institutions, potentially increasing long-term State revenues.

The elimination of the Community-Anchored Development Program may result in long-term State revenue increases due to the potential reduction in the issuance of otherwise authorized tax credits. Currently, a total of $1.2 billion in tax credits may be awarded under both programs, though the Community-Anchored Development Program is not scheduled to begin accepting applications until 2026. Under the bill, the entire $1.2 billion allocation would be available for the Cultural Arts Incentives Program alone. If this program does not fully utilize the allocation, the State could realize higher revenues than it otherwise would if the tax credits were fully utilized. However, this potential long-term benefit cannot be quantified with certainty as it depends on future program utilization rates.

The bill is also unable to determine the magnitude or direction of the bill's impact on State expenditures. By expanding eligibility for the Cultural Arts Incentives Program, the bill is expected to increase State administrative costs associated with the processing of additional program applications. However, the bill is also expected to reduce State administrative costs by eliminating the Community-Anchored Development Program. The OLS is unable to determine the net effect of these countervailing impacts.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Patrick Walsh* *Associate Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

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

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

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 5378

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 3, 2025

SUMMARY

Synopsis:	Modifies provisions of Cultural Arts Incentives Program, New Jersey Aspire Program, and Grow New Jersey Program; eliminates Community-Anchored Development Program.
Type of Impact:	Indeterminate impact on State costs. Indeterminate impact on State revenues.
Agencies Affected:	Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	**FY 2025 & Thereafter**
State Expenditure Impact	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill would result in an indeterminate State fiscal impact. The bill expands eligibility under the Cultural Arts Incentives Program administered by the New Jersey Economic Development Authority, provides up to $500 million annually for the program from available tax credits beginning in FY 2026, and eliminates the allowance for additional tax credits to be awarded under the Cultural Arts Incentives Program to support the operating reserves of certain non-profit institutions. The bill also eliminates the New Jersey Community-Anchored Development Program.

- The OLS is unable to determine the fiscal impact of the bill on State revenues as it depends on several factors, including the number of newly eligible applicants under the significantly expanded eligibility criteria for the Cultural Arts Incentives Program, the utilization of the $500 million annual allocation, the offsetting effect of eliminating the operating reserve tax credit provision for nonprofits, and the overall utilization of the Cultural Arts Incentives Program.

BILL DESCRIPTION

The bill modifies the Cultural Arts Incentives Program and eliminates the Community-Anchored Development Program. The bill modifies the definition of "cultural arts institution" to include entities whose mission or experience addresses cultural, educational, or artistic enrichment, rather than having it be their primary mission. The bill also expands eligibility to include any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts and developers that have a partnership agreement with the National Park Service. Additionally, the bill expands the scope of eligible cultural arts institution facilities to include national historical parks, war memorials or museums, and related facilities.

Beginning in FY 2026, the bill provides that up to $500 million annually of uncommitted tax credits from the New Jersey Aspire Program and Emerge Program allocations be made available for Cultural Arts Incentives Program projects.

The bill eliminates a provision of current law that allows the authority to award additional tax credits under the Cultural Arts Incentives Program to certain non-profit cultural arts institutions in an amount up to 100 percent of the institution's operating reserve.

The bill also modifies the application process for the Cultural Arts Incentives Program by requiring the authority to conduct a review of applications on a rolling basis, rather than through a competitive application process, unless the authority determines that demand is likely to exceed available tax credits. The bill also allows certain pre-construction costs to be included in eligible project costs and provides alternative compliance paths for Work First New Jersey program requirements. Finally, the bill eliminates the Community-Anchored Development Program, which has not yet begun accepting applications.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill would result in an indeterminate State fiscal impact. The OLS is unable to determine the magnitude or direction of the bill's fiscal impact as it depends on several factors, including the number of newly eligible applicants under the significantly expanded eligibility criteria for the Cultural Arts Incentives Program, the utilization of the $500 million annual allocation, the offsetting effect of eliminating the operating reserve tax credit provision for nonprofits, and the overall utilization of the Cultural Arts Incentives Program.

Specifically, the bill significantly expands eligibility under the Cultural Arts Incentives Program administered by the authority, provides up to $500 million annually for the program from available tax credits beginning in FY 2026, and eliminates the allowance for additional tax credits to be awarded under the Cultural Arts Incentives Program to support the operating reserves of certain non-profit institutions. The bill also eliminates the New Jersey Community-Anchored Development Program.

The expanded eligibility for the Cultural Arts Incentives Program would include entities whose mission or experience addresses cultural, educational, or artistic enrichment rather than requiring it to be their primary mission. Any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts and developers with partnership agreements with the

National Park Service would also become eligible. Additionally, national historical parks, war memorials or museums, and related facilities would be included in the scope of eligible cultural arts institution facilities. These changes may increase State revenue losses through the issuance of tax credits for projects that would not qualify under current law.

Beginning in FY 2026, the bill provides that up to $500 million annually from the New Jersey Aspire Program and Emerge Program allocations may be made available for Cultural Arts Incentives Program projects. This represents an increase in potential funding beyond the current $1.2 billion allocation shared between the Cultural Arts Incentives Program and the Community-Anchored Development Program.

The bill also eliminates the provision allowing the authority to award additional tax credits to non-profit cultural arts institutions based on their operating reserves. Under current law, these institutions can receive tax credits up to 100 percent of their operating reserve, defined as an unrestricted fund balance set aside to stabilize finances against unexpected events, income losses, or unbudgeted expenses. Eliminating this provision is expected to reduce the maximum value of tax credits awarded to certain institutions, potentially increasing long-term State revenues.

The elimination of the Community-Anchored Development Program may result in long-term State revenue increases due to the potential reduction in the issuance of otherwise authorized tax credits. Currently, a total of $1.2 billion in tax credits may be awarded under both programs, though the Community-Anchored Development Program is not scheduled to begin accepting applications until 2026. Under the bill, the entire $1.2 billion allocation would be available for the Cultural Arts Incentives Program alone, and up to $500 million annually of uncommitted tax credits from the New Jersey Aspire Program and Emerge Program would become available to the Cultural Arts Incentives Program starting in FY 2026. If these programs do not fully utilize these allocations, the State could realize higher revenues than it otherwise would if the tax credits were fully utilized. However, this potential long-term benefit cannot be quantified with certainty as it depends on future program utilization rates.

The OLS is unable to determine the magnitude or direction of the bill’s impact on State expenditures. By expanding eligibility for the Cultural Arts Incentives Program, the bill is expected to increase State administrative costs associated with the processing of additional program applications. However, the bill is also expected to reduce State administrative costs by eliminating the Community-Anchored Development Program. The OLS is unable to determine the net effect of these countervailing impacts.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Patrick Walsh* *Associate Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

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

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

SENATE, No. 4255

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 3, 2025

Sponsored by:
Senator BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)

SYNOPSIS

Modifies provisions of Cultural Arts Incentives Program; eliminates Community-Anchored Development Program.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning State economic development policy, amending various parts of the statutory law, and repealing sections 43 through 53 of P.L.2020, c.156.

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

1. Section 2 of P.L.2023, c.197 (C.34:1B-384) is amended to read as follows:

2. The Legislature finds and declares that:

a. The New Jersey Economic Development Authority can effectively utilize cultural arts institution facilities as catalysts for broad economic development in targeted communities. Under the legislation, facilities engaged in the cultural, educational, or artistic enrichment of the people of this State are provided with the opportunity to facilitate targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the ability of cultural arts institution facilities to attract visitors and businesses to the State by leveraging the incalculable economic and cultural benefits of building and supporting world class cultural arts institutions.

b. Projects involving the development or rehabilitation of a cultural arts institution facility are inherently beneficial to the State because they provide vital contributions to the communities in which they are located, and together the arts community provides immeasurable economic and cultural benefits to the State.

c. **[**Through a competitive application process, a cultural arts institution will make its case for an amount of tax credits necessary for a project to be able to establish occupancy costs at a competitive level.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

d. The Legislature declares that two principal objectives underscore the policy approach of this legislation: first, that providing spaces for arts and culture to flourish will result in thriving communities; and second, the State must help to provide these spaces through an incentives program that better reflects the economics of arts and culture facilities and that the current suite of real estate programs cannot succeed in this endeavor.

(cf: P.L.2023, c.197, s.2)

2. Section 3 of P.L.2023, c.197 (C.34:1B-385) is amended to read as follows:

3. As used in P.L.2023, c.197 (C.34:1B-383 et al.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by a cultural arts

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.

institution. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A cultural arts institution may establish by clear and convincing evidence, as determined by the authority, that control exists in situations involving lesser percentages of ownership if the cultural arts institution shall have control, at a minimum, of all aspects of compliance with this program. An affiliate of a cultural arts institution may contribute to the project cost and may satisfy the requirement for site control during construction and the eligibility period, but in no event shall the tax credit certificate be issued to any affiliate.

"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 by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Cultural arts institution" means a governmental entity or nonprofit or governmental economic or community development entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, operating on a not-for-profit basis, and having the **[**primary**]** mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State. A "cultural arts institution" shall include a for-profit business seeking a tax credit for a cultural arts institution facility open to the public provided that the cultural arts institution facility is receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). A “cultural arts institution” shall include the National Park Service. A “cultural arts institution” shall also include a developer that has a partnership agreement with any of the foregoing.

"Cultural arts institution facility" means an existing or proposed facility within this State, operated and maintained by a cultural arts institution. A "cultural arts institution facility" includes, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, or any related facility that is principally for the support and benefit of any of the foregoing.

"Cultural arts project" means a capital project for the construction or improvement of a cultural arts institution facility that is located in the State for which a cultural arts institution is to

be awarded tax credits by the authority under the program pursuant to a tax credit agreement, provided that the project for which the tax credits are awarded will result in a capital investment of at least $5,000,000.

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

"Eligibility period" means the period during which a cultural arts institution may claim, sell, transfer, or otherwise use a tax credit under the program, beginning with the tax period in which the authority accepts certification of the cultural arts institution that it has met the capital investment requirements of the program and extending thereafter for a term of at least five years.

"Eligible position" means a full-time position in an entity in this State which the entity has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156, 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.

"New full-time job" means an eligible position created by a cultural arts institution at a cultural arts project that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the cultural arts institution.

["Operating reserve" means an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.**]**

"Program" means the Cultural Arts Incentives Program established pursuant to section 4 of P.L.2023, c.197 (C.34:1B-386).

"Project cost" means the costs incurred in connection with a cultural arts project by a cultural arts institution until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned,

developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs, and the cost of infrastructure improvements, including ancillary infrastructure projects. The fees associated with the application or administration of tax credits under P.L.2023, c.197 (C.34:1B-383 et al.) shall not constitute a project cost. <u>The project cost shall not include costs incurred by a cultural arts institution for construction activities undertaken prior to the date of application for the program.</u>

"Project financing gap" means the part of the total project 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 capital contributed by the cultural arts institution, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans; provided, however, that for a cultural arts project located in a government-restricted municipality, the capital contributed by the cultural arts institution shall not be less than 10 percent of the total project cost.

"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.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 8 of P.L.2023, c.197 (C.34:1B-390) between the authority and a cultural arts institution.

"Work First New Jersey program" means the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

(cf: P.L.2023, c.197, s.3)

3. Section 4 of P.L.2023, c.197 (C.34:1B-386) is amended to read as follows:

4. a. The Cultural Arts Incentives Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The board shall certify an eligible cultural arts institution based on the requirements of section 5 of P.L.2023, c.197 (C.34:1B-387), and may approve the award of a tax credit to a cultural arts institution pursuant to the provisions of P.L.2023, c.197 (C.34:1B-383 et al.). The value of all tax credits approved by the authority to cultural arts institutions under the program shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). Any tax credit awarded under the program may be utilized by a cultural arts institution for the same project in

conjunction with a tax credit award made pursuant to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); provided, however, that any tax credit awarded under the program shall not be considered to be developer contributed capital for the purposes of calculating the project financing gap for an incentive award under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

b. (1) The authority shall administer the program to incentivize the establishment of cultural arts projects by a cultural arts institution independently or in collaboration with one or more governmental entities. A cultural arts project involving the development or rehabilitation of a cultural arts institution facility shall be eligible for a tax credit award in an amount not to exceed 100 percent of eligible project costs**[**, except, in the case of a cultural arts institution operating on a not-for-profit basis, the tax credit award may include up to 100 percent of such cultural arts institution's appropriate operating reserve as determined by the authority**]**. The value of tax credits approved by the authority under the program for a cultural arts project shall not exceed $75,000,000 per cultural arts project.

(2) (a) A cultural arts institution shall sell and transfer the tax credits awarded under the program, or adopt a plan to use such tax credits in order to finance the completion of the cultural arts project. A cultural arts institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an equity investment in, or secure other financial support for, the cultural arts project that will permit the cultural arts institution to develop the cultural arts project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the cultural arts project. The authority shall evaluate each proposed cultural arts project to determine the likelihood of the project's success. A cultural arts institution shall submit to the authority an independent market study showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful. The authority may procure third party consultants to determine a project's likelihood of success.

(b) Consistent with an applicable tax credit agreement, a tax credit awarded to a cultural arts institution may be applied against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(cf: P.L.2023, c.197, s.4)

4. Section 5 of P.L.2023, c.197 (C.34:1B-387) is amended to read as follows:

5. a. A cultural arts institution shall be eligible to receive a tax credit under the program only if the cultural arts institution is eligible pursuant to subsection b. of this section and submits a program application to the authority that results in completion of a cultural arts project.

b. At the time of application, a cultural arts institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed cultural arts project will result in a capital investment of at least $5,000,000;

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete the cultural arts project and then, unless the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution, operate the cultural arts **[**project**]** institution facility;

(3) that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless:

(a) the authority determines that the cultural arts project would not be completed without an award of tax credits under the program; or

(b) the construction activities are limited to general maintenance, necessary repairs, demolition, environmental assessment, environmental investigation, and environmental remediation;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the cultural arts institution to finance the establishment of the cultural arts project;

(5) the total aggregate value of the tax credits for the entire eligibility period that is necessary in order for the cultural arts institution to finance the establishment of the cultural arts project;

(6) that the cultural arts project shall comply with the standards established by the authority through regulation based on 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 in order to reduce environmental degradation and encourage long-term cost reduction;

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

(8) a description of the significant economic, social, planning, employment, and other benefits that would accrue to the State, county, or municipality from the cultural arts project;

(9) that during the eligibility period, each worker employed to perform construction work and building services work at the

cultural arts 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.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the cultural arts project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to construction work and building services work at the entire facility. In the event the cultural arts project constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(10) that during the eligibility period, the cultural arts institution shall partner with one or more local community organizations that provide support and services to Work First New Jersey program recipients, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients, which activities and services may include, but shall not be limited to: work-study programs, internships, sector-based contextualized literacy training, skills-based training in growth industries in the State, and job retention and advancement services;

(11) that the timing of the award of tax credits under the program shall allow for the successful completion and operation of the cultural arts project demonstrated through an independent market study submitted by the applicant showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful; and that the cultural arts institution has a strong prior track record of success or an independent analysis demonstrates that a newly formed cultural arts institution will be successful;

(12) a project financing gap exists, or the authority determines that the cultural arts project will generate a below market rate of return. The authority shall evaluate past and projected fundraising efforts of the cultural arts institution to determine whether a project financing gap exists;

(13) that<u>, unless the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution,</u> the cultural arts institution will have ownership of, or lease space in, the cultural arts institution facility and operate or hold an operating agreement for at least the eligibility period; and

(14) that the cultural arts institution will have at least 20 percent equity in the cultural arts project, which equity interest may include amounts contributed through government grants, not including economic subsidies provided by the authority, received by the cultural arts institution; provided, however, for a cultural arts project located in a government-restricted municipality, the equity required shall not be less than 10 percent.

c. Prior to the board considering an application submitted by a cultural arts institution, 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 cultural arts institution 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. The cultural arts institution shall certify that any contractors or subcontractors that will perform work at the cultural arts 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 authority may also contract with an independent third party to perform a background check on a cultural arts institution.

(cf: P.L.2023, c.197, s.5)

5. Section 7 of P.L.2023, c.197 (C.34:1B-389) is amended to read as follows:

7. a. The authority shall **[**award tax credits under the program through a competitive application process consisting of at least one award round each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website**]** conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may implement a competitive application process whereby the authority shall evaluate all applications submitted by a date certain as if all were submitted on that date.

b. **[**The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for cultural arts projects that satisfy the criteria set forth in sections 5 through 7 of P.L.2023, c.197 (C.34:1B-387 through 34:1B-389) in a given award round shall be ranked on the basis of a scoring system developed by the authority, in consultation with the New Jersey State Council on the Arts. Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that each applicant is required to attain to be eligible for a tax credit.**]** To receive a tax credit award, a cultural arts institution shall be required to meet a minimum score, as determined by the authority pursuant to this section.

c. The scoring system developed by the authority pursuant to **[**subsection b. of**]** this section shall assess applications for tax

credits based on [competitive] criteria, which shall include, but shall not be limited to:

(1) the amount of tax credits requested by the cultural arts institution compared to the amount of tax credits required for the completion of the cultural arts project;

(2) how the cultural arts project will advance State, regional, and local goals concerning the development of arts and cultural facilities in underserved communities;

(3) the relationship of the cultural arts project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(4) the degree to which the cultural arts project enhances and promotes job creation and economic development;

(5) the extent of economic and related social distress in the municipality and the immediate area surrounding the cultural arts project, including whether the cultural arts project is located in a qualified incentive tract or other areas of the State identified from time to time by the authority in rules;

(6) the quality and number of new full-time jobs that will be created by the cultural arts institution; and

(7) if the cultural arts institution has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the cultural arts project is located.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting [competitive] <u>the</u> criteria required under the program when necessary to respond to conditions in the State.

e. Prior to the award of 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 cultural arts institution 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 cultural arts institution and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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. Provided that all parties are in compliance with this subsection, the authority shall allocate tax credits to cultural arts projects according to the cultural arts projects' scores and until either the available tax credits are exhausted or all cultural arts

projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible cultural arts projects, a cultural arts project may be offered a partial tax credit valued at less than what is provided for in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386).

f. Applications that do not receive the minimum score established by the authority **[**for that award round**]** shall not receive further consideration for a tax credit by the authority **[**in that award round**]** for that application; however, a cultural arts institution may **[**revise or complete**]** submit a new application **[**to be submitted in a subsequent award round**]**.

g. **[**If a cultural arts institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

(cf: P.L.2023, c.197, s.7)

6. Section 8 of P.L.2023, c.197 (C.34:1B-390) is amended to read as follows:

8. a. Following approval and selection of an application pursuant to sections 6 and 7 of P.L.2023, c.197 (C.34:1B-388 and 34:1B-389), the authority shall enter into a tax credit agreement with the cultural arts institution.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the cultural arts institution and specify the duration of the eligibility period, which shall be no less than five years and shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the cultural arts project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the cultural arts institution provides executed financing commitments to the authority and a verification of the cultural arts institution's projected cash flow at the time of certification that the project is completed;

(2) specify that the authority or the State may purchase tax credits offered for sale by a cultural arts institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(3) at a minimum, require a cultural arts institution to provide oversight of the cultural arts project through ongoing reporting by the cultural arts institution to the authority;

(4) specify other measures through which the authority shall ensure oversight of outstanding tax credits, and, in the event that a cultural arts institution fails to meet its obligations under the tax credit agreement or any program requirement, including any representations made by the cultural arts institution during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, establish the right of the authority to reduce, rescind, or recapture tax credits in the authority's discretion; and

(5) at a minimum, require that the cultural arts institution adopt specific nondiscrimination policies for the operation of a cultural arts project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the cultural arts institution. As part of the authority's review of the annual reports required from each cultural arts institution, the authority shall confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the cultural arts institution is in substantial good standing with the respective department, or has entered into an agreement with such department that includes a practical corrective action plan for the cultural arts institution; and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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 tax credit agreement shall include a provision that the cultural arts institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement, or the cultural arts institution is neither in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury nor has entered into a practical corrective action plan. The tax credit agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting requirement.

e. A cultural arts institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The cultural arts institution, or an authorized agent of the cultural arts institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

(cf: P.L.2023, c.197, s.8)

7. Section 9 of P.L.2023, c.197 (C.34:1B-391) is amended to read as follows:

9. a. Up to the limits established in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386), and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the cultural arts project, or upon any other event evidencing project completion as set forth in the tax credit agreement, a cultural arts institution of such approved cultural arts project shall be awarded a tax credit. No more than the amount of tax credits equal to the total credit amount awarded under the program divided by the duration of the eligibility period in years may be taken in any tax period.

b. A cultural arts institution that is awarded a tax credit under P.L.2023, c.197 (C.34:1B-383 et al.) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the cultural arts institution is aware of any condition, event, or act that would cause the cultural arts institution not to be in compliance with the tax credit agreement, the representations made to the authority during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, or the provisions of P.L.2023, c.197 (C.34:1B-383 et al.) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The cultural arts institution or an authorized agent of the cultural arts institution shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

c. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the cultural arts institution and the Director of the Division of Taxation in the Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the cultural arts institution, that the cultural arts institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 10 of P.L.2023, c.197 (C.34:1B-392); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the cultural arts

project, if that use is in accordance with rules and regulations adopted by the authority to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the cultural arts institution and the authority to provide the cultural arts institution with a tax credit transfer certificate, as described in section 10 of P.L.2023, c.197 (C.34:1B-392), or a tax credit certificate for the value awarded by the authority for that year that the cultural arts institution may use as provided in paragraph (1) of this subsection and in accordance with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.

(cf: P.L.2023, c.197, s.9)

8. Section 10 of P.L.2023, c.197 (C.34:1B-392) is amended to read as follows:

10. a. A cultural arts institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the cultural arts institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than $25,000, in the privilege period during which the cultural arts institution receives the tax credit transfer certificate from the director, to another person who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The cultural arts institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the cultural arts institution of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a cultural arts institution by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to P.L.2023, c.197 (C.34:1B-383 et al.) and any other terms and conditions that the director may prescribe; provided, however, that the holder of a tax credit certificate may transfer all or part of the tax credit amount, on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, **[**and the**]** in the tax period in which it was issued, or in any of the next three successive tax periods. The transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. A transferee may carry forward **[**all or part of the tax**]** an unused credit

[amount] for use in any of the next five successive tax periods, and the unused credit shall expire thereafter. Notwithstanding any provision of this section to the contrary, the amount of tax credits that may be claimed by the transferee in any tax period shall not exceed the total tax credit amount divided by the duration of the eligibility period in years.

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

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

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

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

(5) the consideration received by the transferor.

(cf: P.L.2023, c.197, s.10)

9. Section 11 of P.L.2023, c.197 (C.34:1B-393) is amended to read as follows:

11. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L.2023, c.197 (C.34:1B-383 et al.), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L. , c. (pending before the Legislature as this bill), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations

in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
(cf: P.L.2023, c.197, s.11)

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

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

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

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

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

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

period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

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

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

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-

lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

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

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

qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

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

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

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

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

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

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

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

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

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

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

(vii) increased development proximate to mass transit facilities;

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

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

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

including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

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

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

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

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

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

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

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

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

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321);**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

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

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

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

12. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

1. a. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance that is approved, funded, authorized,

administered or provided by the authority to any entity and is provided before, during or after completion of a project, including but not limited to, all authority financial assistance received by the entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

b. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any contract, for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work in connection with the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this subsection shall apply to any site preparation work performed 24 months prior to and during the incentive eligibility period of any project receiving tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in which there is a continuity of ownership in the site of the redevelopment project, including work undertaken to fulfill any condition of receiving tax credits under the programs. Work that is subject to the requirements of this subsection shall include the performance of any contract for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work undertaken on a facility for operations which are necessary for the receipt of tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),

and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the tax credit and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and subcontractors subject to the prevailing wage requirement set forth in this section shall be registered with the Department of Labor and Workforce Development pursuant to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its application that all construction contracts undertaken on any project in connection with an award under the programs comply with the prevailing wage requirements of this subsection. If at any time the authority determines that the developer made a material misrepresentation regarding compliance with the provisions of this subsection on the developer's application, the developer shall forfeit 35 percent of the tax credits allowed under the programs, and pay to the affected workers back wages in an amount that compensates the workers at the prevailing wage rate for the work performed.
(cf: P.L.2020, c.156, s.112)

13. Sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) are repealed.

14. This act shall take effect immediately.

STATEMENT

This bill expands eligibility under the Cultural Arts Incentives Program (program), authorizes the New Jersey Economic Development Authority (authority) to accept applications on a rolling basis, and revises certain provisions concerning tax credits awarded under the program.

Applicant Eligibility

Under current law, certain entities that qualify as a “cultural arts institution” may apply for tax credits to finance the development or

rehabilitation of a cultural arts institution facility under the program. Among other requirements, to be eligible for tax credits, a cultural arts institution is required to: (1) have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State; (2) operate and maintain the cultural arts institution facility; and (3) own or lease space in the cultural arts institution facility.

This bill amends current law to provide an exception to the requirement that a cultural arts institution have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State. Under the bill, an entity may qualify as a cultural arts institution so long as any part of the entity's mission and specific policy goals addresses the cultural, educational, or artistic enrichment of the people of this State. The bill also expands the scope of cultural arts institutions to include the National Park Service, as well as any developer that has a partnership agreement with an entity that qualifies as a cultural arts institution.

The bill also amends current law to provide an exception to the requirements that a cultural arts institution operate and maintain, and either own or lease space in, the cultural arts institution facility. Under the bill, these requirements do not apply if the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution.

Additionally, the bill amends the definition of "cultural arts institution facility" under current law to include, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, or any related facility that is principally for the support and benefit of any of the foregoing.

Operating Reserve

This bill removes a provision of current law that authorizes the authority to award to certain cultural arts institutions, in addition to the tax credit award otherwise provided for under the program, a tax credit valued at up to 100 percent of an operating reserve, as determined by the authority. Current law defines an "operating reserve" to mean an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.

Construction Prior to Application Date

Under current law, an applicant is required to demonstrate that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless the authority determines that the cultural arts project would not be completed without an award of tax credits under the program.

This bill amends this requirement to permit some construction prior to the submission of an application, provided that the construction activities are limited to general maintenance, necessary repairs, demolition, environmental assessment, environmental investigation, and environmental remediation. The bill also amends the definition of "project cost" to exclude costs incurred for construction activities prior to the date of a cultural arts institution's application under the program.

Application Process

Current law requires the authority to implement a competitive application process for the program. Instead, this bill requires the authority to conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may instead implement a competitive application process whereby the authority is required to evaluate all applications submitted by a date certain as if all were submitted on that date.

Use of Transferred Tax Credits

Under current law, the transferee to whom a tax credit certificate is transferred under the program may carry forward all or part of the tax credit amount in any of the next five successive tax periods.

This bill amends this provision to permit a transferee to use the credit in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. Under the bill, the transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in the bill, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. The transferee may carry forward an unused credit for use in any of the next five successive tax periods, and the unused credit expires thereafter.

Repeal of New Jersey Community-Anchored Development Act

Under current law, a total of $1.2 billion tax credits may be awarded in total under the program and the New Jersey Community-Anchored Development Program. The authority is scheduled to begin accepting applications under the New Jersey Community-Anchored Development Program in 2026.

This bill repeals the New Jersey Community-Anchored Development Act that established the New Jersey Community-Anchored Development Program.

[First Reprint]

SENATE, No. 4255

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 3, 2025

Sponsored by:
Senator BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

Co-Sponsored by:
Senators Zwicker and McKnight

SYNOPSIS

Modifies provisions of Cultural Arts Incentives Program; eliminates Community-Anchored Development Program.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on May 22, 2025, with amendments.

(Sponsorship Updated As Of: 6/23/2025)

AN ACT concerning State economic development policy, amending various parts of the statutory law, and repealing sections 43 through 53 of P.L.2020, c.156.

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

1. Section 2 of P.L.2023, c.197 (C.34:1B-384) is amended to read as follows:

2. The Legislature finds and declares that:

a. The New Jersey Economic Development Authority can effectively utilize cultural arts institution facilities as catalysts for broad economic development in targeted communities. Under the legislation, facilities engaged in the cultural, educational, or artistic enrichment of the people of this State are provided with the opportunity to facilitate targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the ability of cultural arts institution facilities to attract visitors and businesses to the State by leveraging the incalculable economic and cultural benefits of building and supporting world class cultural arts institutions.

b. Projects involving the development or rehabilitation of a cultural arts institution facility are inherently beneficial to the State because they provide vital contributions to the communities in which they are located, and together the arts community provides immeasurable economic and cultural benefits to the State.

c. **[**Through a competitive application process, a cultural arts institution will make its case for an amount of tax credits necessary for a project to be able to establish occupancy costs at a competitive level.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

d. The Legislature declares that two principal objectives underscore the policy approach of this legislation: first, that providing spaces for arts and culture to flourish will result in thriving communities; and second, the State must help to provide these spaces through an incentives program that better reflects the economics of arts and culture facilities and that the current suite of real estate programs cannot succeed in this endeavor.

(cf: P.L.2023, c.197, s.2)

2. Section 3 of P.L.2023, c.197 (C.34:1B-385) is amended to read as follows:

3. As used in P.L.2023, c.197 (C.34:1B-383 et al.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by a cultural arts

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SEG committee amendments adopted May 22, 2025.

institution. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A cultural arts institution may establish by clear and convincing evidence, as determined by the authority, that control exists in situations involving lesser percentages of ownership if the cultural arts institution shall have control, at a minimum, of all aspects of compliance with this program. An affiliate of a cultural arts institution may contribute to the project cost and may satisfy the requirement for site control during construction and the eligibility period, but in no event shall the tax credit certificate be issued to any affiliate.

"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 by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Cultural arts institution" means a governmental entity or nonprofit or governmental economic or community development entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, operating on a not-for-profit basis, and having the **[**primary**]** mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State. A "cultural arts institution" shall include a for-profit business seeking a tax credit for a cultural arts institution facility open to the public provided that the cultural arts institution facility is receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). A “cultural arts institution” shall include the National Park Service. A “cultural arts institution” shall also include a developer that has a partnership agreement with any of the foregoing.

"Cultural arts institution facility" means an existing or proposed facility within this State, operated and maintained by a cultural arts institution. A "cultural arts institution facility" includes, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, or any related facility that is principally for the support and benefit of any of the foregoing.

"Cultural arts project" means a capital project for the construction or improvement of a cultural arts institution facility that is located in the State for which a cultural arts institution is to

be awarded tax credits by the authority under the program pursuant to a tax credit agreement, provided that the project for which the tax credits are awarded will result in a capital investment of at least $5,000,000.

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

"Eligibility period" means the period during which a cultural arts institution may claim, sell, transfer, or otherwise use a tax credit under the program, beginning with the tax period in which the authority accepts certification of the cultural arts institution that it has met the capital investment requirements of the program and extending thereafter for a term of at least five years.

"Eligible position" means a full-time position in an entity in this State which the entity has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156, 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.

"New full-time job" means an eligible position created by a cultural arts institution at a cultural arts project that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the cultural arts institution.

["Operating reserve" means an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.**]**

"Program" means the Cultural Arts Incentives Program established pursuant to section 4 of P.L.2023, c.197 (C.34:1B-386).

"Project cost" means the costs incurred in connection with a cultural arts project by a cultural arts institution until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned,

developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs, and the cost of infrastructure improvements, including ancillary infrastructure projects. The fees associated with the application or administration of tax credits under P.L.2023, c.197 (C.34:1B-383 et al.) shall not constitute a project cost. <u>The project cost shall not include costs incurred by a cultural arts institution for construction activities undertaken prior to the date of application for the program.</u>

"Project financing gap" means the part of the total project 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 capital contributed by the cultural arts institution, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans; provided, however, that for a cultural arts project located in a government-restricted municipality, the capital contributed by the cultural arts institution shall not be less than 10 percent of the total project cost.

"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.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 8 of P.L.2023, c.197 (C.34:1B-390) between the authority and a cultural arts institution.

"Work First New Jersey program" means the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

(cf: P.L.2023, c.197, s.3)

3. Section 4 of P.L.2023, c.197 (C.34:1B-386) is amended to read as follows:

4. a. The Cultural Arts Incentives Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The board shall certify an eligible cultural arts institution based on the requirements of section 5 of P.L.2023, c.197 (C.34:1B-387), and may approve the award of a tax credit to a cultural arts institution pursuant to the provisions of P.L.2023, c.197 (C.34:1B-383 et al.). The value of all tax credits approved by the authority to cultural arts institutions under the program shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). Any tax credit awarded under the program may be utilized by a cultural arts institution for the same project in

conjunction with a tax credit award made pursuant to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); provided, however, that any tax credit awarded under the program shall not be considered to be developer contributed capital for the purposes of calculating the project financing gap for an incentive award under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

b. (1) The authority shall administer the program to incentivize the establishment of cultural arts projects by a cultural arts institution independently or in collaboration with one or more governmental entities. A cultural arts project involving the development or rehabilitation of a cultural arts institution facility shall be eligible for a tax credit award in an amount not to exceed 100 percent of eligible project costs**[**, except, in the case of a cultural arts institution operating on a not-for-profit basis, the tax credit award may include up to 100 percent of such cultural arts institution's appropriate operating reserve as determined by the authority**]**. The value of tax credits approved by the authority under the program for a cultural arts project shall not exceed $75,000,000 per cultural arts project.

(2) (a) A cultural arts institution shall sell and transfer the tax credits awarded under the program, or adopt a plan to use such tax credits in order to finance the completion of the cultural arts project. A cultural arts institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an equity investment in, or secure other financial support for, the cultural arts project that will permit the cultural arts institution to develop the cultural arts project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the cultural arts project. The authority shall evaluate each proposed cultural arts project to determine the likelihood of the project's success. A cultural arts institution shall submit to the authority an independent market study showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful. The authority may procure third party consultants to determine a project's likelihood of success.

(b) Consistent with an applicable tax credit agreement, a tax credit awarded to a cultural arts institution may be applied against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(cf: P.L.2023, c.197, s.4)

4. Section 5 of P.L.2023, c.197 (C.34:1B-387) is amended to read as follows:

5. a. A cultural arts institution shall be eligible to receive a tax credit under the program only if the cultural arts institution is eligible pursuant to subsection b. of this section and submits a program application to the authority that results in completion of a cultural arts project.

b. At the time of application, a cultural arts institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed cultural arts project will result in a capital investment of at least $5,000,000;

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete the cultural arts project and then, unless the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution, operate the cultural arts **[**project**]** institution facility;

(3) that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless:

(a) the authority determines that the cultural arts project would not be completed without an award of tax credits under the program; or

(b) the construction activities are limited to general maintenance, necessary repairs, demolition, environmental assessment, environmental investigation, and environmental remediation;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the cultural arts institution to finance the establishment of the cultural arts project;

(5) the total aggregate value of the tax credits for the entire eligibility period that is necessary in order for the cultural arts institution to finance the establishment of the cultural arts project;

(6) that the cultural arts project shall comply with the standards established by the authority through regulation based on 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 in order to reduce environmental degradation and encourage long-term cost reduction;

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

(8) a description of the significant economic, social, planning, employment, and other benefits that would accrue to the State, county, or municipality from the cultural arts project;

(9) that during the eligibility period, each worker employed to perform construction work and building services work at the

cultural arts 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.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the cultural arts project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to construction work and building services work at the entire facility. In the event the cultural arts project constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(10) that during the eligibility period, the cultural arts institution shall partner with one or more local community organizations that provide support and services to Work First New Jersey program recipients, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients, which activities and services may include, but shall not be limited to: work-study programs, internships, sector-based contextualized literacy training, skills-based training in growth industries in the State, and job retention and advancement services;

(11) that the timing of the award of tax credits under the program shall allow for the successful completion and operation of the cultural arts project demonstrated through an independent market study submitted by the applicant showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful; and that the cultural arts institution has a strong prior track record of success or an independent analysis demonstrates that a newly formed cultural arts institution will be successful;

(12) a project financing gap exists, or the authority determines that the cultural arts project will generate a below market rate of return. The authority shall evaluate past and projected fundraising efforts of the cultural arts institution to determine whether a project financing gap exists;

(13) that<u>, unless the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution,</u> the cultural arts institution will have ownership of, or lease space in, the cultural arts institution facility and operate or hold an operating agreement for at least the eligibility period; and

(14) that the cultural arts institution will have at least 20 percent equity in the cultural arts project, which equity interest may include amounts contributed through government grants, not including economic subsidies provided by the authority, received by the cultural arts institution; provided, however, for a cultural arts project located in a government-restricted municipality, the equity required shall not be less than 10 percent.

c. Prior to the board considering an application submitted by a cultural arts institution, 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 cultural arts institution 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. The cultural arts institution shall certify that any contractors or subcontractors that will perform work at the cultural arts 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 authority may also contract with an independent third party to perform a background check on a cultural arts institution.

(cf: P.L.2023, c.197, s.5)

5. Section 7 of P.L.2023, c.197 (C.34:1B-389) is amended to read as follows:

7. a. The authority shall **[**award tax credits under the program through a competitive application process consisting of at least one award round each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website**]** conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may implement a competitive application process whereby the authority shall evaluate all applications submitted by a date certain as if all were submitted on that date.

b. **[**The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for cultural arts projects that satisfy the criteria set forth in sections 5 through 7 of P.L.2023, c.197 (C.34:1B-387 through 34:1B-389) in a given award round shall be ranked on the basis of a scoring system developed by the authority, in consultation with the New Jersey State Council on the Arts. Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that each applicant is required to attain to be eligible for a tax credit.**]** To receive a tax credit award, a cultural arts institution shall be required to meet a minimum score, as determined by the authority pursuant to this section.

c. The scoring system developed by the authority pursuant to ⟦subsection b. of⟧ this section shall assess applications for tax credits based on ⟦competitive⟧ criteria, which shall include, but shall not be limited to:

(1) the amount of tax credits requested by the cultural arts institution compared to the amount of tax credits required for the completion of the cultural arts project;

(2) how the cultural arts project will advance State, regional, and local goals concerning the development of arts and cultural facilities in underserved communities;

(3) the relationship of the cultural arts project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(4) the degree to which the cultural arts project enhances and promotes job creation and economic development;

(5) the extent of economic and related social distress in the municipality and the immediate area surrounding the cultural arts project, including whether the cultural arts project is located in a qualified incentive tract or other areas of the State identified from time to time by the authority in rules;

(6) the quality and number of new full-time jobs that will be created by the cultural arts institution; and

(7) if the cultural arts institution has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the cultural arts project is located.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting ⟦competitive⟧ <u>the</u> criteria required under the program when necessary to respond to conditions in the State.

e. Prior to the award of 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 cultural arts institution 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 cultural arts institution and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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. Provided that all parties are in compliance with this subsection, the authority shall allocate tax credits to cultural arts

projects according to the cultural arts projects' scores and until either the available tax credits are exhausted or all cultural arts projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible cultural arts projects, a cultural arts project may be offered a partial tax credit valued at less than what is provided for in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386).

f. Applications that do not receive the minimum score established by the authority **[**for that award round**]** shall not receive further consideration for a tax credit by the authority **[**in that award round**]** for that application; however, a cultural arts institution may **[**revise or complete**]** submit a new application **[**to be submitted in a subsequent award round**]**.

g. **[**If a cultural arts institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

(cf: P.L.2023, c.197, s.7)

6. Section 8 of P.L.2023, c.197 (C.34:1B-390) is amended to read as follows:

8. a. Following approval and selection of an application pursuant to sections 6 and 7 of P.L.2023, c.197 (C.34:1B-388 and 34:1B-389), the authority shall enter into a tax credit agreement with the cultural arts institution.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the cultural arts institution and specify the duration of the eligibility period, which shall be no less than five years and shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the cultural arts project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the cultural arts institution provides executed financing commitments to the authority and a verification of the cultural arts institution's

projected cash flow at the time of certification that the project is completed;

(2) specify that the authority or the State may purchase tax credits offered for sale by a cultural arts institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(3) at a minimum, require a cultural arts institution to provide oversight of the cultural arts project through ongoing reporting by the cultural arts institution to the authority;

(4) specify other measures through which the authority shall ensure oversight of outstanding tax credits, and, in the event that a cultural arts institution fails to meet its obligations under the tax credit agreement or any program requirement, including any representations made by the cultural arts institution during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, establish the right of the authority to reduce, rescind, or recapture tax credits in the authority's discretion; and

(5) at a minimum, require that the cultural arts institution adopt specific nondiscrimination policies for the operation of a cultural arts project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the cultural arts institution. As part of the authority's review of the annual reports required from each cultural arts institution, the authority shall confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the cultural arts institution is in substantial good standing with the respective department, or has entered into an agreement with such department that includes a practical corrective action plan for the cultural arts institution; and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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 tax credit agreement shall include a provision that the cultural arts institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement, or the cultural arts institution is neither in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury nor has entered into a practical corrective action plan. The tax credit agreement shall, however, allow the authority to extend,

in individual cases, the deadline for any annual reporting requirement.

e. A cultural arts institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The cultural arts institution, or an authorized agent of the cultural arts institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

(cf: P.L.2023, c.197, s.8)

7. Section 9 of P.L.2023, c.197 (C.34:1B-391) is amended to read as follows:

9. a. Up to the limits established in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386), and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the cultural arts project, or upon any other event evidencing project completion as set forth in the tax credit agreement, a cultural arts institution of such approved cultural arts project shall be awarded a tax credit. No more than the amount of tax credits equal to the total credit amount awarded under the program divided by the duration of the eligibility period in years may be taken in any tax period.

b. A cultural arts institution that is awarded a tax credit under P.L.2023, c.197 (C.34:1B-383 et al.) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the cultural arts institution is aware of any condition, event, or act that would cause the cultural arts institution not to be in compliance with the tax credit agreement, the representations made to the authority during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, or the provisions of P.L.2023, c.197 (C.34:1B-383 et al.) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The cultural arts institution or an authorized agent of the cultural arts institution shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

c. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the cultural arts institution and the Director of the Division of Taxation in the Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the cultural arts institution, that the cultural arts institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 10 of P.L.2023, c.197 (C.34:1B-392); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the cultural arts project, if that use is in accordance with rules and regulations adopted by the authority to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the cultural arts institution and the authority to provide the cultural arts institution with a tax credit transfer certificate, as described in section 10 of P.L.2023, c.197 (C.34:1B-392), or a tax credit certificate for the value awarded by the authority for that year that the cultural arts institution may use as provided in paragraph (1) of this subsection and in accordance with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.

(cf: P.L.2023, c.197, s.9)

8. Section 10 of P.L.2023, c.197 (C.34:1B-392) is amended to read as follows:

10. a. A cultural arts institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the cultural arts institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than $25,000, in the privilege period during which the cultural arts institution receives the tax credit transfer certificate from the director, to another person who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The cultural arts institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the cultural arts institution of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a cultural arts institution by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to P.L.2023, c.197 (C.34:1B-383 et al.) and any other terms and conditions that the director may prescribe; provided, however, that the holder of a tax credit certificate may transfer all or part of the tax credit amount, on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, **[**and the**]** in the tax period in which it was issued, or in any of the next three successive tax periods. The transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need to amend the tax return for the tax period for which the credit

was issued, subject to the provisions of this section. A transferee may carry forward ⟦all or part of the tax⟧ an unused credit ⟦amount⟧ for use in any of the next five successive tax periods, and the unused credit shall expire thereafter. Notwithstanding any provision of this section to the contrary, the amount of tax credits that may be claimed by the transferee in any tax period shall not exceed the total tax credit amount divided by the duration of the eligibility period in years.

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

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

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

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

(5) the consideration received by the transferor.

(cf: P.L.2023, c.197, s.10)

9. Section 11 of P.L.2023, c.197 (C.34:1B-393) is amended to read as follows:

11. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L.2023, c.197 (C.34:1B-383 et al.), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L. , c. (pending before the Legislature as this bill), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief

executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(cf: P.L.2023, c.197, s.11)

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

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

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

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

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

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

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

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

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

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act,"

P.L.2024, c.49 (C.34:1B-362 et seq.), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

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

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not

including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

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

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

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

available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.).

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

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

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

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

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

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

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

(vii) increased development proximate to mass transit facilities;

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

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

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

companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

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

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

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

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

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

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

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

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

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321);**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

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

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

(cf: P.L.2020, c.156, s.89)**]**[1]

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

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

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

(2) the "New Jersey Aspire Program Act," sections 54 through 67of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted

after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or

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

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

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

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

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

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

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

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

12. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

1. a. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority

financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance that is approved, funded, authorized, administered or provided by the authority to any entity and is provided before, during or after completion of a project, including but not limited to, all authority financial assistance received by the entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

b. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any contract, for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work in connection with the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this subsection shall apply to any site preparation work performed 24 months prior to and during the incentive eligibility period of any project receiving tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program

Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in which there is a continuity of ownership in the site of the redevelopment project, including work undertaken to fulfill any condition of receiving tax credits under the programs. Work that is subject to the requirements of this subsection shall include the performance of any contract for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work undertaken on a facility for operations which are necessary for the receipt of tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the tax credit and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and subcontractors subject to the prevailing wage requirement set forth in this section shall be registered with the Department of Labor and Workforce Development pursuant to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its application that all construction contracts undertaken on any project in connection with an award under the programs comply with the prevailing wage requirements of this subsection. If at any time the authority determines that the developer made a material misrepresentation regarding compliance with the provisions of this subsection on the developer's application, the developer shall forfeit 35 percent of the tax credits allowed under the programs, and pay to the affected workers back wages in an amount that compensates the workers at the prevailing wage rate for the work performed.

(cf: P.L.2020, c.156, s.112)

13. Sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) are repealed.

14. This act shall take effect immediately.

[Second Reprint]

SENATE, No. 4255

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 3, 2025

Sponsored by:
Senator BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

Co-Sponsored by:
Senators Zwicker and McKnight

SYNOPSIS

Modifies provisions of Cultural Arts Incentives Program, New Jersey Aspire Program, and Grow New Jersey Program; eliminates Community-Anchored Development Program.

CURRENT VERSION OF TEXT

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

(Sponsorship Updated As Of: 6/23/2025)

AN ACT concerning State economic development policy, amending various parts of the statutory law, and repealing sections 43 through 53 of P.L.2020, c.156.

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

1. Section 2 of P.L.2023, c.197 (C.34:1B-384) is amended to read as follows:

2. The Legislature finds and declares that:

a. The New Jersey Economic Development Authority can effectively utilize cultural arts institution facilities as catalysts for broad economic development in targeted communities. Under the legislation, facilities engaged in the cultural, educational, or artistic enrichment of the people of this State are provided with the opportunity to facilitate targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the ability of cultural arts institution facilities to attract visitors and businesses to the State by leveraging the incalculable economic and cultural benefits of building and supporting world class cultural arts institutions.

b. Projects involving the development or rehabilitation of a cultural arts institution facility are inherently beneficial to the State because they provide vital contributions to the communities in which they are located, and together the arts community provides immeasurable economic and cultural benefits to the State.

c. **[**Through a competitive application process, a cultural arts institution will make its case for an amount of tax credits necessary for a project to be able to establish occupancy costs at a competitive level.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

d. The Legislature declares that two principal objectives underscore the policy approach of this legislation: first, that providing spaces for arts and culture to flourish will result in thriving communities; and second, the State must help to provide these spaces through an incentives program that better reflects the economics of arts and culture facilities and that the current suite of real estate programs cannot succeed in this endeavor.

(cf: P.L.2023, c.197, s.2)

2. Section 3 of P.L.2023, c.197 (C.34:1B-385) is amended to read as follows:

3. As used in P.L.2023, c.197 (C.34:1B-383 et al.):

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SEG committee amendments adopted May 22, 2025.
[2]Senate SBA committee amendments adopted June 26, 2025.

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by a cultural arts institution. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A cultural arts institution may establish by clear and convincing evidence, as determined by the authority, that control exists in situations involving lesser percentages of ownership if the cultural arts institution shall have control, at a minimum, of all aspects of compliance with this program. An affiliate of a cultural arts institution may contribute to the project cost and may satisfy the requirement for site control during construction and the eligibility period, but in no event shall the tax credit certificate be issued to any affiliate.

"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 by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Cultural arts institution" means a governmental entity or nonprofit or governmental economic or community development entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, operating on a not-for-profit basis, and having ²[the] a² ²[primary] mission ²[and specific policy goal]² of ², or experience in,² cultural, educational, or artistic enrichment of the people of this State. A "cultural arts institution" shall include a for-profit business seeking a tax credit for a cultural arts institution facility open to the public provided that the cultural arts institution facility is receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). A “cultural arts institution” shall include ²[the National Park Service] any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts² . A “cultural arts institution” shall also include a developer that has a partnership agreement with ²[any of the foregoing] the National Park Service² .

"Cultural arts institution facility" means an existing or proposed facility within this State, operated and maintained by a cultural arts institution ²or the National Park Service². A "cultural arts institution facility" includes, without limitation, an aquarium, botanical society, historical society, library, museum, gallery,

performing arts center, national historical park, [2]war memorial or museum,[2] or any related facility that is principally for the support and benefit of any of the foregoing.

"Cultural arts project" means a capital project for the construction or improvement of a cultural arts institution facility that is located in the State for which a cultural arts institution is to be awarded tax credits by the authority under the program pursuant to a tax credit agreement, provided that the project for which the tax credits are awarded will result in a capital investment of at least $5,000,000.

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

"Eligibility period" means the period during which a cultural arts institution may claim, sell, transfer, or otherwise use a tax credit under the program, beginning with the tax period in which the authority accepts certification of the cultural arts institution that it has met the capital investment requirements of the program and extending thereafter for a term of at least five years.

"Eligible position" means a full-time position in an entity in this State which the entity has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156, 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.

"New full-time job" means an eligible position created by a cultural arts institution at a cultural arts project that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the cultural arts institution.

[[]"Operating reserve" means an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.[]]

"Program" means the Cultural Arts Incentives Program established pursuant to section 4 of P.L.2023, c.197 (C.34:1B-386).

"Project cost" means the costs incurred in connection with a cultural arts project by a cultural arts institution until the issuance

of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs, and the cost of infrastructure improvements, including ancillary infrastructure projects. The fees associated with the application or administration of tax credits under P.L.2023, c.197 (C.34:1B-383 et al.) shall not constitute a project cost. [2]**[**The project cost shall not include costs incurred by a cultural arts institution for construction activities undertaken prior to the date of application for the program.**]**[2]

"Project financing gap" means the part of the total project 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 capital contributed by the cultural arts institution, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans; provided, however, that for a cultural arts project located in a government-restricted municipality, the capital contributed by the cultural arts institution shall not be less than 10 percent of the total project cost.

"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.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 8 of P.L.2023, c.197 (C.34:1B-390) between the authority and a cultural arts institution.

"Work First New Jersey program" means the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

(cf: P.L.2023, c.197, s.3)

3. Section 4 of P.L.2023, c.197 (C.34:1B-386) is amended to read as follows:

4. a. The Cultural Arts Incentives Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The board shall certify an eligible cultural arts institution based on the requirements of section 5 of P.L.2023, c.197 (C.34:1B-387), and may approve the award of a tax credit to a

cultural arts institution pursuant to the provisions of P.L.2023, c.197 (C.34:1B-383 et al.). The value of all tax credits approved by the authority to cultural arts institutions under the program shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). Any tax credit awarded under the program may be utilized by a cultural arts institution for the same project in conjunction with a tax credit award made pursuant to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); provided, however, that any tax credit awarded under the program shall not be considered to be developer contributed capital for the purposes of calculating the project financing gap for an incentive award under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

b. (1) The authority shall administer the program to incentivize the establishment of cultural arts projects by a cultural arts institution independently or in collaboration with one or more governmental entities. A cultural arts project involving the development or rehabilitation of a cultural arts institution facility shall be eligible for a tax credit award in an amount not to exceed 100 percent of eligible project costs**[**, except, in the case of a cultural arts institution operating on a not-for-profit basis, the tax credit award may include up to 100 percent of such cultural arts institution's appropriate operating reserve as determined by the authority**]**. The value of tax credits approved by the authority under the program for a cultural arts project shall not exceed $75,000,000 per cultural arts project.

(2) (a) A cultural arts institution shall sell and transfer the tax credits awarded under the program, or adopt a plan to use such tax credits in order to finance the completion of the cultural arts project. A cultural arts institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an equity investment in, or secure other financial support for, the cultural arts project that will permit the cultural arts institution to develop the cultural arts project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the cultural arts project. The authority shall evaluate each proposed cultural arts project to determine the likelihood of the project's success. A cultural arts institution shall submit to the authority an independent market study showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful. The authority may procure third party consultants to determine a project's likelihood of success.

(b) Consistent with an applicable tax credit agreement, a tax credit awarded to a cultural arts institution may be applied against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132

(C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.
(cf: P.L.2023, c.197, s.4)

4. Section 5 of P.L.2023, c.197 (C.34:1B-387) is amended to read as follows:

5. a. A cultural arts institution shall be eligible to receive a tax credit under the program only if the cultural arts institution is eligible pursuant to subsection b. of this section and submits a program application to the authority that results in completion of a cultural arts project.

b. At the time of application, a cultural arts institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed cultural arts project will result in a capital investment of at least $5,000,000 [2], which may include, for a project for which an applicant has commenced construction before the submission of an application, costs incurred before the date of application, provided that such costs would have otherwise qualified as project costs[2];

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete the cultural arts project and then , unless the cultural arts institution facility is to be operated by the National Park Service [2][or a developer that has a partnership agreement with the cultural arts institution]2, operate the cultural arts [project] institution facility;

(3) that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless:

(a) the authority determines that the cultural arts project would not be completed without an award of tax credits under the program; or

(b) the construction activities are limited to general maintenance, [2][necessary repairs,]2 demolition, environmental assessment, environmental investigation, and environmental remediation;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the cultural arts institution to finance the establishment of the cultural arts project;

(5) the total aggregate value of the tax credits for the entire eligibility period that is necessary in order for the cultural arts institution to finance the establishment of the cultural arts project;

(6) that the cultural arts project shall comply with the standards established by the authority through regulation based on 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 in order to reduce environmental degradation and encourage long-term cost reduction;

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

(8) a description of the significant economic, social, planning, employment, and other benefits that would accrue to the State, county, or municipality from the cultural arts project;

(9) that during the eligibility period, each worker employed to perform construction work and building services work at the cultural arts 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.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the cultural arts project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to construction work and building services work at the entire facility. In the event the cultural arts project constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(10) that [2][during the eligibility period,] , unless the cultural arts institution facility is to be operated by the National Park Service,[2] the cultural arts institution shall [2][partner with one or more local community organizations that provide] either:

(a) provide[2] support and services to Work First New Jersey program recipients [2][, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients, which activities and services may include, but shall not be limited to: work-study programs, internships, sector-based contextualized literacy training, skills-based training in growth industries in the State, and job retention and advancement services] during the eligibility period; or

(b) have provided support and services to Work First New Jersey program recipients on or after December 21, 2023[2];

(11) that the timing of the award of tax credits under the program shall allow for the successful completion and operation of the cultural arts project demonstrated through an independent market study submitted by the applicant showing there is demand for a cultural arts institution facility at the proposed project site and that it is expected to be successful; and that the cultural arts institution has a strong prior track record of success or an independent analysis demonstrates that a newly formed cultural arts institution will be successful;

(12) a project financing gap exists, or the authority determines that the cultural arts project will generate a below market rate of return. The authority shall evaluate past and projected fundraising efforts of the cultural arts institution to determine whether a project financing gap exists;

(13) that, unless the cultural arts institution facility is to be operated by the National Park Service [2][or a developer that has a partnership agreement with the cultural arts institution][2], the cultural arts institution will have ownership of, or lease space in, the cultural arts institution facility and operate or hold an operating agreement for at least the eligibility period; and

(14) that the cultural arts institution will have at least 20 percent equity in the cultural arts project, which equity interest may include amounts contributed through government grants, not including economic subsidies provided by the authority, received by the cultural arts institution; provided, however, for a cultural arts project located in a government-restricted municipality, the equity required shall not be less than 10 percent.

c. Prior to the board considering an application submitted by a cultural arts institution, 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 cultural arts institution 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. The cultural arts institution shall certify that any contractors or subcontractors that will perform work at the cultural arts 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 authority may also contract with an independent third party to perform a background check on a cultural arts institution.

(cf: P.L.2023, c.197, s.5)

5. Section 7 of P.L.2023, c.197 (C.34:1B-389) is amended to read as follows:

7. a. The authority shall [award tax credits under the program through a competitive application process consisting of at least one award round each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website] conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may implement a competitive application process whereby the authority shall evaluate all applications submitted by a date certain as if all were submitted on that date.

b. [The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the

deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for cultural arts projects that satisfy the criteria set forth in sections 5 through 7 of P.L.2023, c.197 (C.34:1B-387 through 34:1B-389) in a given award round shall be ranked on the basis of a scoring system developed by the authority, in consultation with the New Jersey State Council on the Arts. Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that each applicant is required to attain to be eligible for a tax credit.**]** To receive a tax credit award, a cultural arts institution shall be required to meet a minimum score, as determined by the authority pursuant to this section.

c. The scoring system developed by the authority pursuant to **[**subsection b. of**]** this section shall assess applications for tax credits based on **[**competitive**]** criteria, which shall include, but shall not be limited to:

(1) the amount of tax credits requested by the cultural arts institution compared to the amount of tax credits required for the completion of the cultural arts project;

(2) how the cultural arts project will advance State, regional, and local goals concerning the development of arts and cultural facilities in underserved communities;

(3) the relationship of the cultural arts project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(4) the degree to which the cultural arts project enhances and promotes job creation and economic development;

(5) the extent of economic and related social distress in the municipality and the immediate area surrounding the cultural arts project, including whether the cultural arts project is located in a qualified incentive tract or other areas of the State identified from time to time by the authority in rules;

(6) the quality and number of new full-time jobs that will be created by the cultural arts institution; and

(7) if the cultural arts institution has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the cultural arts project is located.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting **[**competitive**]** the criteria required under the program when necessary to respond to conditions in the State.

e. Prior to the award of 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 cultural arts institution 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 cultural arts institution and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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. Provided that all parties are in compliance with this subsection, the authority shall allocate tax credits to cultural arts projects according to the cultural arts projects' scores and until either the available tax credits are exhausted or all cultural arts projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible cultural arts projects, a cultural arts project may be offered a partial tax credit valued at less than what is provided for in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386).

f. Applications that do not receive the minimum score established by the authority **[**for that award round**]** shall not receive further consideration for a tax credit by the authority **[**in that award round**]** for that application; however, a cultural arts institution may **[**revise or complete**]** submit a new application **[**to be submitted in a subsequent award round**]**.

g. **[**If a cultural arts institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

(cf: P.L.2023, c.197, s.7)

6. Section 8 of P.L.2023, c.197 (C.34:1B-390) is amended to read as follows:

8. a. Following approval and selection of an application pursuant to sections 6 and 7 of P.L.2023, c.197 (C.34:1B-388 and 34:1B-389), the authority shall enter into a tax credit agreement with the cultural arts institution.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the cultural arts institution and specify the duration of the eligibility period, which shall be no less than five years and shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the cultural arts project and include a requirement for periodic progress

reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the cultural arts institution provides executed financing commitments to the authority and a verification of the cultural arts institution's projected cash flow at the time of certification that the project is completed;

(2) specify that the authority or the State may purchase tax credits offered for sale by a cultural arts institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(3) at a minimum, require a cultural arts institution to provide oversight of the cultural arts project through ongoing reporting by the cultural arts institution to the authority;

(4) specify other measures through which the authority shall ensure oversight of outstanding tax credits, and, in the event that a cultural arts institution fails to meet its obligations under the tax credit agreement or any program requirement, including any representations made by the cultural arts institution during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, establish the right of the authority to reduce, rescind, or recapture tax credits in the authority's discretion; and

(5) at a minimum, require that the cultural arts institution adopt specific nondiscrimination policies for the operation of a cultural arts project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the cultural arts institution. As part of the authority's review of the annual reports required from each cultural arts institution, the authority shall confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the cultural arts institution is in substantial good standing with the respective department, or has entered into an agreement with such department that includes a practical corrective action plan for the cultural arts institution; and the cultural arts institution shall confirm that any contractors and subcontractors performing work at the cultural arts 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 tax credit agreement shall include a provision that the cultural arts institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement, or the cultural arts institution is neither in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury nor has entered into a practical corrective action plan. The tax credit agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting requirement.

e. A cultural arts institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The cultural arts institution, or an authorized agent of the cultural arts institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

(cf: P.L.2023, c.197, s.8)

7. Section 9 of P.L.2023, c.197 (C.34:1B-391) is amended to read as follows:

9. a. Up to the limits established in paragraph (1) of subsection b. of section 4 of P.L.2023, c.197 (C.34:1B-386), and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the cultural arts project, or upon any other event evidencing project completion as set forth in the tax credit agreement, a cultural arts institution of such approved cultural arts project shall be awarded a tax credit. No more than the amount of tax credits equal to the total credit amount awarded under the program divided by the duration of the eligibility period in years may be taken in any tax period.

b. A cultural arts institution that is awarded a tax credit under P.L.2023, c.197 (C.34:1B-383 et al.) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the cultural arts institution is aware of any condition, event, or act that would cause the cultural arts institution not to be in compliance with the tax credit agreement, the representations made to the authority during the **[**competitive award rounds conducted pursuant to section 7 of P.L.2023, c.197 (C.34:1B-389)**]** application process, or the provisions of P.L.2023, c.197 (C.34:1B-383 et al.) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The cultural arts institution or an authorized agent of the cultural arts institution shall

certify under the penalty of perjury that the information provided pursuant to this subsection is true.

c. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the cultural arts institution and the Director of the Division of Taxation in the Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the cultural arts institution, that the cultural arts institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 10 of P.L.2023, c.197 (C.34:1B-392); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the cultural arts project, if that use is in accordance with rules and regulations adopted by the authority to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the cultural arts institution and the authority to provide the cultural arts institution with a tax credit transfer certificate, as described in section 10 of P.L.2023, c.197 (C.34:1B-392), or a tax credit certificate for the value awarded by the authority for that year that the cultural arts institution may use as provided in paragraph (1) of this subsection and in accordance with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.

(cf: P.L.2023, c.197, s.9)

8. Section 10 of P.L.2023, c.197 (C.34:1B-392) is amended to read as follows:

10. a. A cultural arts institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the cultural arts institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than $25,000, in the privilege period during which the cultural arts institution receives the tax credit transfer certificate from the director, to another person who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The cultural arts institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the cultural arts institution of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a cultural arts institution by the director shall be subject to any limitations and conditions imposed on the application of State tax

credits pursuant to P.L.2023, c.197 (C.34:1B-383 et al.) and any other terms and conditions that the director may prescribe; provided, however, that the holder of a tax credit certificate may transfer all or part of the tax credit amount, on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, **[**and the**]** in the tax period in which it was issued, or in any of the next three successive tax periods. The transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. A transferee may carry forward **[**all or part of the tax**]** an unused credit **[**amount**]** for use in any of the next five successive tax periods, and the unused credit shall expire thereafter. Notwithstanding any provision of this section to the contrary, the amount of tax credits that may be claimed by the transferee in any tax period shall not exceed the total tax credit amount divided by the duration of the eligibility period in years.

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

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

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

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

(5) the consideration received by the transferor.

(cf: P.L.2023, c.197, s.10)

9. Section 11 of P.L.2023, c.197 (C.34:1B-393) is amended to read as follows:

11. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L.2023, c.197 (C.34:1B-383 et al.), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in

accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. 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 shall, in consultation with the New Jersey State Council on the Arts, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of P.L. , c. (pending before the Legislature as this bill), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer, in consultation with the New Jersey State Council on the Arts, shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(cf: P.L.2023, c.197, s.11)

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

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

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

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

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

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

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

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

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.), pursuant to subparagraph (k) of this paragraph [2], cultural arts institutions awarded a tax credit pursuant to the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), pursuant to subparagraph (l) of this paragraph[2], or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any

previous year, without consideration to the county in which a project is located;

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

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

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

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include

the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State; **[2]**[and]**[2]**

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.)**[2]**; and

(l) beginning in fiscal year 2026, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for cultural arts institutions awarded a tax credit pursuant to the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.34:1B-383 et al.)**[2]**.

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

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

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

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

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

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

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

(vii) increased development proximate to mass transit facilities;

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

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

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

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

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

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

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New

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

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

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

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

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

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321);**]** <u>(Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)</u>

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

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

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

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

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

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

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

(cf: P.L.2020, c.156, s.89)**]**[1]

[1]11. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

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

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

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

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

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

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

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

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

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

(5) **[**the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

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

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

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

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

12. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

1. a. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance that is approved, funded, authorized, administered or provided by the authority to any entity and is provided before, during or after completion of a project, including but not limited to, all authority financial assistance received by the

entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

b. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any contract, for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work in connection with the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this subsection shall apply to any site preparation work performed 24 months prior to and during the incentive eligibility period of any project receiving tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in which there is a continuity of ownership in the site of the redevelopment project, including work undertaken to fulfill any condition of receiving tax credits under the programs. Work that is subject to the requirements of this subsection shall include the performance of any contract for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work undertaken on a facility for operations which are necessary for the receipt of tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), unless the work performed under the contract is performed on a facility owned by a landlord of

the entity receiving the tax credit and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and subcontractors subject to the prevailing wage requirement set forth in this section shall be registered with the Department of Labor and Workforce Development pursuant to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the **[**"New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the**]** "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its application that all construction contracts undertaken on any project in connection with an award under the programs comply with the prevailing wage requirements of this subsection. If at any time the authority determines that the developer made a material misrepresentation regarding compliance with the provisions of this subsection on the developer's application, the developer shall forfeit 35 percent of the tax credits allowed under the programs, and pay to the affected workers back wages in an amount that compensates the workers at the prevailing wage rate for the work performed.

(cf: P.L.2020, c.156, s.112)

[2**]** 13. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to read as follows:

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

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

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

"Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center, and the Trenton-Mercer Airport, established pursuant to R.S.40:8-2 and the area within a one-mile radius of the outermost boundary of the Trenton-Mercer Airport.

"Board" means the Board of the New Jersey Economic Development Authority, established by 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).

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

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

"Commercial project" means a redevelopment project, which is predominantly commercial and, if located in a government-restricted municipality, contains 25,000 or more square feet, or if located in any other municipality, contains 50,000 or more square feet of office and retail space, industrial space, or film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, and may include a parking component. The term "commercial project" includes a redevelopment project comprised solely of a health care or health services center, which contains not less than 10,000 square feet devoted to health care or health services, and which may include a parking component. The term "commercial project" also includes an industrial space that is predominantly used for warehouse distribution or fulfillment centers if the eligible project cost includes at least $10,000,000 in environmental remediation costs.

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

redevelopment project, or completes and operates a redevelopment project.

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

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

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

"Eligibility period" means the period not to exceed 10 years, as specified in an incentive award agreement during which a developer may claim a tax credit under the program, as such period shall be determined by the authority pursuant to subsection b. of section 60 of P.L.2020, c.156 (C.34:1B-328), provided that a developer may elect a period not to exceed five years for a project located in a government-restricted municipality or for a special mission non-profit project.

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

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

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

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods,

such as fresh fruits and vegetables, and that has been designated as a food desert community pursuant to subsection b. of section 38 of P.L.2020, c.156 (C.34:1B-306).

"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. The term "government-restricted municipality" also includes any municipality that: has a population greater than 50,000 and less than 60,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 800,000 according to the latest federal decennial census, and has an MRI distress score of 62.1; has a population greater than 70,000 and less than 100,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 515,000 and less than 525,000 according to the latest federal decennial census, and has an MRI distress score of 100; or contains the intersection of Interstate 280 and the Garden State Parkway, and corresponding land areas occupied by such highways under the ownership or control of the federal government of the United States or of this State within its municipal boundary, and has an MRI distress score of 55.5.

"Health care or health services center" means an establishment that consists of not less than 10,000 square feet devoted to health care or health services, where patients are admitted for or seek examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, and which is located in a municipality with an MRI distress score of at least 50, a distressed municipality, or a qualified incentive tract<u>, or is located on land owned by the federal government of the United States on or before December 31, 2005</u>.

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

"Incentive area" means an aviation district; a port district; an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated Center under the State

Development and Redevelopment Plan; an area designated as a brownfield site pursuant to the "Brownfield and Contaminated Site Remediation Act," sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.); and an area of not less than 100 acres for which a licensed site remediation professional has certified environmental remediation costs, as defined in this section and in accordance with the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), in an amount not less than $10,000,000, provided that any portion of such area is located in an area that otherwise qualifies as an incentive area.

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

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

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

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

"Labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment, hospitality 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, hospitality 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, hospitality establishment, or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third party that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail establishment, hospitality establishment, or distribution center employees in the State.

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

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

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

"Minimum environmental and sustainability standards" means 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.

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

"MRI distress score" means a municipal revitalization index distress score, as documented in the 2023 Municipal Revitalization Index developed by the Department of Community Affairs.

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

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

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

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

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

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

"Project financing gap" means the part of the total project 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 project 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 on a non-recourse basis, 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 total project cost. 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: (i) the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or (ii) the value as determined by a current appraisal.

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

"Qualified incentive tract" means a population census tract having a poverty rate of 20 percent or more or 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.

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

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

the sale of federal or local tax credits, the "reasonable and appropriate return on investment" shall be based on both the discount rate at which the present value of the future cash flows of an investment equal the cost of the investment for the entire project, and when evaluating only the units financed with federal low-income housing tax credits awarded by the agency, the approval of deferred developer fees pursuant to the rules established by the agency.

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

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

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

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

"Special mission non-profit project" means a project located in a government-restricted municipality or in an enhanced area that: serves a special mission, as determined by the authority, to accomplish the public purpose of a non-profit that is a developer of or is affiliated with the project and includes no more than 100 units of 100 percent supportive housing units for tenants requiring special needs or social services, which social services may include licensed social workers, and no more than 25,000 square feet of commercial space for the provision of on-site social service programs that require a license from the Department of Children and Families as a licensed child care center. Special mission non-profit projects shall be exempt from the net benefit test requirement, affordable housing requirements, and the requirement to provide a market study as part of its application to the authority.

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

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

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

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

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

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force.[2]

(cf: P.L.2025, c.2, s.1)

[2]14. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to read as follows:

65. a. As used in this section, "transformative project" means a redevelopment project: that has a project financing gap; that has a total project cost of at least $150,000,000; that includes 200,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in a government-restricted municipality, that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, that includes 300,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in an enhanced area, or that includes 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for any other project; and, for a commercial project, that is of special economic importance as measured by the level of new jobs, new capital investment,

opportunities to leverage leadership in a high-priority targeted industry, or other state priorities as determined by the authority pursuant to rules and regulations promulgated to implement this section. Notwithstanding the provisions of subsection b. of section 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located entirely on land designated by the Department of Environmental Protection as a brownfield development area pursuant to section 7 of P.L.2005, c.223 (C.58:10B-25.1), and the eligible project cost of the redevelopment project includes at least $15,000,000 in environmental remediation costs, the redevelopment project shall constitute a project of special economic importance. For applications submitted on or after the effective date of P.L. , c. (pending before the Legislature as this bill), the redevelopment project shall constitute a project of special economic importance if the redevelopment project is a health care or health services center that: is associated with, and located on, the same complex as a new or existing university, academic, or medical research center, institution, or facility; is an establishment that is associated with a National Cancer Institute Designated Comprehensive Cancer Center that is engaged in cancer research; is a transformative expansion of healthcare services by an academic medical and research center located in a distressed municipality that is adjacent to existing clinical facilities; or is a project located at a State-designated trauma center. A transformative project may be completed in phases, which phases may be determined by the authority based on factors such as written architectural plans and specifications completed before or during the physical work, certificates of occupancy, or financial and operational plans. The criteria developed by the authority shall include, but shall not be limited to:

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

(2) (a) for a residential project, the construction of 700 or more new residential units;

(b) for a mixed-use residential project containing fewer than 700 new residential units:

(i) the construction of 200 or more new residential units if the project is located in a government-restricted municipality, 300 or more new residential units if the project is located in an enhanced area, or 400 or more new residential units for all other mixed-use projects; and

(ii) the construction of 30,000 square feet or more of commercial space, which commercial space may include retail space; and

(c) (Deleted by amendment, P.L.2025, c.2)

(d) for a residential project, 20 percent of the new residential units shall be constructed for occupancy by low- and moderate-income households with affordability controls as adopted by the authority, in consultation with the agency, in accordance with paragraph (2) of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential project receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), shall be exempt from the affordability controls related to bedroom distribution; and

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

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

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

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

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

(3) Notwithstanding the provisions of section 57 of P.L.2020, c.156 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, a transformative project shall be completed, and the developer shall be issued a certificate of occupancy for the transformative project facilities by the applicable enforcing agency, within five years of executing the incentive award agreement, except that the authority may, in its discretion, extend this deadline by up to one additional year. For transformative projects completed in phases, the transformative project shall be completed, and the developer shall be issued certificates of occupancy for all phases of the transformative project facilities by the applicable enforcing agency, within 10 years of executing either the incentive award agreement or the first transformative phase agreement corresponding to the transformative project.

(4) Notwithstanding the provisions of sections 55 and 60 of P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other

section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each phase of a transformative project completed in phases shall have a separate eligibility period. After completing each phase, the developer shall submit a certification that the phase is completed. If the authority approves the certification, the tax credit allowed to the developer shall be increased by the tax credit amount corresponding to that phase. Notwithstanding the different eligibility periods for each phase, all conditions and requirements applicable during an eligibility period pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335) shall apply to the entire transformative project until the end of the eligibility period for the last phase.

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

(6) A transformative project receiving an incentive award pursuant to this section, other than a project that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms or other infrastructure for film production, shall be located in an incentive area, a distressed municipality, a government-restricted municipality, or an enhanced area. A transformative project receiving an incentive award pursuant to this section that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production may be located anywhere in the State. The authority shall not consider an application for a transformative project unless the applicant submits with its application a letter evidencing support for the transformative project from the governing body of the municipality in which the transformative project is located.

c. The authority shall review the transformative project cost, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the transformative project will result in a net positive benefit to the State. In determining whether a transformative project will result in a net positive benefit to the State, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the

effect of lowering or eliminating the developer's State or local tax liability. The determination made pursuant to this subsection shall be based on the potential tax liability of the developer without regard for potential tax losses if the developer were to locate in another state. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis concerning the developer's application for an incentive award that a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall evaluate the net economic benefits on a present value basis under which the requested tax credit allocation amount is discounted to present value at the same discount rate as the projected benefits from the implementation of the proposed transformative project for which an award of tax credits is being sought. Projects that are predominantly residential or that qualify as special mission non-profit projects shall be excluded from the calculation of the net benefit test required pursuant to this subsection.

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

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

f. Prior to allocating an incentive award to 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 the developer has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer shall certify that each contractor or subcontractor performing work at the transformative 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 the State; and (3) possesses 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 developer.

g. Notwithstanding the limitation on incentive awards set forth in subsection b. of section 61 and section 98 of P.L.2020, c.156

(C.34:1B-329 and C.34:1B-362) to the contrary, the authority may allow a developer of a transformative project a tax credit in an amount not to exceed the lesser of:

(1) (a) (i) 85 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality qualified as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.); or

(ii) 80 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality did not qualify as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.);

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

(c) 50 percent of the eligible project cost for any other transformative project;

(2) the total value of the project financing gap; or

(3) $400,000,000 except that for a transformative project that is developed in phases, the $400,000,000 limitation on incentive awards set forth in this paragraph shall apply to the total aggregate award for all phases of the transformative project.[2]

(cf: P.L.2025, c.2, s.8)

[2]15. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to read as follows:

6. a. (1) The combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013 shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), there shall be no monetary cap on the value of credits approved by the authority attributable to the program pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

(2) (Deleted by amendment, P.L.2013, c.161)

(3) (Deleted by amendment, P.L.2013, c.161)

(4) (Deleted by amendment, P.L.2013, c.161)

(5) (Deleted by amendment, P.L.2013, c.161)

b. (1) A business shall submit an application for tax credits prior to July 1, 2019. The authority shall not approve an application

for tax credits unless the application was submitted prior to July 1, 2019.

(2) (a) A business shall submit its documentation indicating that it has met the capital investment and employment requirements and all conditions of approvals specified in the incentive agreement for certification of its tax credit amount, to the authority's satisfaction, within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. If the authority accepts the documentation, the authority shall request that the Division of Taxation in the Department of the Treasury issue a tax credit based on the approved documentation to be used by the business during the eligibility period. Except as provided in subparagraphs (b) and (c) of this paragraph, in no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.

(b) As of the effective date of P.L.2017, c.314, a business which applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149 (C.34:1B-242 et al.), shall submit its documentation to the authority no later than July 28, 2019, indicating that it has met the capital investment and employment requirements specified in the incentive agreement for certification of its tax credit amount.

(c) If the Governor declares an emergency, then the chief executive officer of the authority shall have the discretion to grant an extension for the duration of the emergency and the board of the authority, upon recommendation of the chief executive officer, may grant two additional six-month extensions; provided that (i) the extensions are due to the economic disruption caused by the emergency; (ii) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (iii) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (iv) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

(3) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(4) A business seeking a credit for a mega project shall apply for the credit within four years after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

c. (1) In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount may be taken by the tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax

periods and shall expire thereafter. The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time after the date of issuance for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. In the case of a tax certificate received after the end of the tax period for which the tax certificate was issued, whether by transfer or original issuance, a tax certificate holder or transferee shall not be required to amend the tax return for the tax period for which the tax certificate was issued or any successive tax period if the credit is first applied in the tax period in which it was issued or in a succeeding tax period, as authorized in subsection k. of this section, and subject to the carry-forward provision in this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the eligibility period, in years, may be taken in any tax period.

A business may elect to suspend its obligations for the 2020, 2021, 2022, 2023, or 2024 tax period, or any combination thereof, **[**due to the COVID-19 pandemic,**]** provided that the business shall make such election in writing to the authority **[**before the issuance of the tax credit for the corresponding tax year**]** no later than December 31, 2025 and such suspension shall extend the term of the eligibility period by a corresponding amount of time. The authority shall amend the incentive agreement, and the business shall execute the amended incentive agreement within the time period provided by the authority. The amended incentive agreement shall provide that the failure to submit the annual report due to the suspension shall not be a forfeiture or an uncertified tax period.

(2) Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the Director of the Division of Taxation in the Department of the Treasury accompanied by any additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(4) In order to respond to the profoundly negative impact of the COVID-19 pandemic on the State's economy and finances, the authority may request a tax certificate holder, at the tax certificate holder's discretion, to defer the application of a credit amount allowed pursuant to this section to a later tax period. Upon request, the authority and the tax certificate holder shall negotiate the terms of the deferral, which shall hold the certificate holder harmless,

which will be made in the incentive agreement or as an addendum to the incentive agreement.

d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by the incentive agreement has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 80 percent of the number of jobs specified in the incentive agreement.

(3) (a) If the qualified business facility is sold by the owner in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of the business shall remain unaffected.

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease the facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease the facility; (ii) the ownership or leasing of the facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease the facility. The ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. The members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders,

partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

(4) (a) For a project located within a Garden State Growth Zone, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an increased base credit amount for that tax period and each subsequent tax period, for each additional full-time employee added above the number of full-time employees specified in the incentive agreement, until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount will be adjusted accordingly pursuant to this section.

(b) For a project located within a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which qualifies for a tax credit pursuant to subsubparagraph (ii) of subparagraphs (a) through (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the total tax credit amount per full-time job by using the certified capital investment of the project allowable under the applicable subsubparagraph and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount shall be adjusted accordingly pursuant to this section.

e. The authority shall not enter into an incentive agreement with a business that has previously received incentives pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive

Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other program administered by the authority unless:

(1) the business has satisfied all of its obligations underlying the previous award of incentives or is compliant with section 4 of P.L.2011, c.149 (C.34:1B-245); or

(2) the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

f. A business which has already applied for a tax credit incentive award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the tax credits, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

g. A business that has entered into an incentive agreement may request before December 31, 2024 to terminate the incentive agreement, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2024, due to the COVID-19 public health emergency; provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due, directly or indirectly, to the public health emergency and describing the impact of the public health emergency on the business. All credits for the tax period in which the termination occurs and all subsequent tax periods shall be forfeited, provided however that any credits of the business shall remain unaffected. A termination agreement executed by the authority and business shall not be amended.

h. A business that has entered into an incentive agreement may request, before December 31, 2024, to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification of the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period, provided that the business maintains the minimum number of new or retained full-time jobs required to be eligible pursuant to subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in employment shall first apply to the number of new full-time employees, and then shall apply to the number of retained full-time employees.

The authority shall calculate a new tax credit total amount for the 2020 tax period and the remainder of the eligibility period based on the reduced employment and shall amend the incentive agreement

to reflect the recalculated award amount. In no event shall the modification result in an increase in employment or tax credit amount.

i. Following the termination of the public health emergency declared by the Governor pursuant to Executive Order No. 103 of 2020, as extended, a business that has entered into an incentive agreement may elect, before March 31, 2024, to waive, for the period beginning on July 1, 2022 and ending on March 31, 2024, the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility; provided, however, that a business that makes such an election shall satisfy the following criteria:

(1) any full-time employee employed by the business shall spend at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period and, if elected by the business, the 2024 tax period through March 31, 2024; and

(2) following the receipt by the business of its tax credit certificate or tax credit transfer certificate for the 2022 tax period, the business shall make a payment of an amount equal to five percent of the amount of tax credit the business receives for the 2022 tax period through March 31, 2024, which payment shall be made to the authority, and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within the municipality in which the qualified business facility is located, as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

j. Notwithstanding the provisions of section 2 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation to the contrary, beginning on April 1, 2024, and for all subsequent tax periods, a business located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337) that has entered into an incentive agreement with the authority may elect to waive the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility, provided, however, that a business that makes this election shall satisfy the following criteria:

(1) for a qualified business facility located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time employee employed by the business shall spend at least 40

percent of the employee's time at the qualified business facility during the tax period;

(2) the business shall extend by two years the term of its commitment period beyond the time set forth in the incentive agreement; and

(3) at the time the business submits its tax credit certificate certification for the tax period, the business shall make a non-refundable payment of an amount equal to 10 percent of the amount of the maximum annual tax credit that the business is eligible to receive for the tax period, which payment shall be made to the authority and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

k. Notwithstanding the provisions of any law to the contrary, the credit amount may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the commitment period set forth in the incentive agreement. The tax certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without being required to amend the tax return for the taxpayer for which the credit was issued, subject to the provisions of this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

l. Notwithstanding the provisions of subsection b. of this section or any law or regulation to the contrary, a business that has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134 may request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement, provided the business certifies that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the

reduction shall continue for each subsequent tax period remaining in the eligibility period.[2]

(cf: P.L.2024, c.40, s.4)

[2]**[**13.**]** 16.[2] Sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) are repealed.

[2]**[**14.**]** 17.[2] This act shall take effect immediately.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 4255

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 22, 2025

The Senate Economic Growth Committee reports favorably and with committee amendments Senate Bill No. 4255.

As amended and reported, this bill expands eligibility under the Cultural Arts Incentives Program (program), authorizes the New Jersey Economic Development Authority (authority) to accept applications on a rolling basis, and revises certain provisions concerning tax credits awarded under the program.

Applicant Eligibility

Under current law, certain entities that qualify as a "cultural arts institution" may apply for tax credits to finance the development or rehabilitation of a cultural arts institution facility under the program. Among other requirements to be eligible for tax credits, a cultural arts institution is required to: (1) have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State; (2) operate and maintain the cultural arts institution facility; and (3) own or lease space in the cultural arts institution facility.

This bill amends current law to provide an exception to the requirement that a cultural arts institution have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State. Under the bill, an entity may qualify as a cultural arts institution so long as any part of the entity's mission and specific policy goals addresses the cultural, educational, or artistic enrichment of the people of this State. The bill also expands the scope of cultural arts institutions to include the National Park Service, as well as any developer that has a partnership agreement with an entity that qualifies as a cultural arts institution.

The bill also amends current law to provide an exception to the requirements that a cultural arts institution operate and maintain, and either own or lease space in, the cultural arts institution facility. Under the bill, these requirements do not apply if the cultural arts institution facility is to be operated by the National Park Service or a developer that has a partnership agreement with the cultural arts institution.

Additionally, the bill amends the definition of "cultural arts institution facility" under current law to include, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, or any related facility that is principally for the support and benefit of any of the foregoing.

Operating Reserve

This bill removes a provision of current law that authorizes the authority to award to certain cultural arts institutions, in addition to the tax credit award otherwise provided for under the program, a tax credit valued at up to 100 percent of an operating reserve, as determined by the authority. Current law defines an "operating reserve" to mean an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.

Construction Prior to Application Date

Under current law, an applicant is required to demonstrate that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless the authority determines that the cultural arts project would not be completed without an award of tax credits under the program.

This bill amends this requirement to permit some construction prior to the submission of an application, provided that the construction activities are limited to general maintenance, necessary repairs, demolition, environmental assessment, environmental investigation, and environmental remediation. The bill also amends the definition of "project cost" to exclude costs incurred for construction activities prior to the date of a cultural arts institution's application under the program.

Application Process

Current law requires the authority to implement a competitive application process for the program. Instead, this bill requires the authority to conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may instead implement a competitive application process whereby the authority is required to evaluate all applications submitted by a date certain as if all were submitted on that date.

Use of Transferred Tax Credits

Under current law, the transferee to whom a tax credit certificate is transferred under the program may carry forward all or part of the tax credit amount in any of the next five successive tax periods.

This bill amends this provision to permit a transferee to use the credit in the tax period for which it was issued, in the tax period in

which it was issued, or in any of the next three successive tax periods. Under the bill, the transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in the bill, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. The transferee may carry forward an unused credit for use in any of the next five successive tax periods, and the unused credit expires thereafter.

Repeal of New Jersey Community-Anchored Development Act

Under current law, a total of $1.2 billion in tax credits may be awarded under the program and the New Jersey Community-Anchored Development Program. The authority is scheduled to begin accepting applications under the New Jersey Community-Anchored Development Program in 2026.

This bill repeals the New Jersey Community-Anchored Development Act that established the New Jersey Community-Anchored Development Program.

COMMITTEE AMENDMENTS:

The committee amendments provide technical changes to the bill to update the underlying statute in light of a recent enactment of law.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 4255

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2025

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 4255 (1R).

As amended and reported, this bill expands eligibility under the Cultural Arts Incentives Program (program), authorizes the New Jersey Economic Development Authority (authority) to accept applications on a rolling basis, and revises certain provisions concerning tax credits awarded under the program. The bill also revises certain provisions of law related to the New Jersey Aspire Program (Aspire Program).

Applicant Eligibility

Under current law, certain entities that qualify as a "cultural arts institution" may apply for tax credits to finance the development or rehabilitation of a cultural arts institution facility under the program. Among other requirements to be eligible for tax credits, a cultural arts institution is required to: (1) have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State; (2) operate and maintain the cultural arts institution facility; and (3) own or lease space in the cultural arts institution facility.

This bill amends current law to provide an exception to the requirement that a cultural arts institution have the primary mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State. Under the bill, an entity may qualify as a cultural arts institution so long as the entity has a mission of, or experience in, cultural, educational, or artistic enrichment of the people of this State. The bill also expands the scope of cultural arts institutions to include any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts, as well as any developer that has a partnership agreement with the National Park Service.

Additionally, the bill amends the definition of "cultural arts institution facility" under current law to include, without limitation, an aquarium, botanical society, historical society, library, museum, gallery, performing arts center, national historical park, war

memorial or museum, or any related facility that is principally for the support and benefit of any of the foregoing.

The bill also amends current law to provide an exception to the requirements that a cultural arts institution operate and maintain, and either own or lease space in, the cultural arts institution facility. Under the bill, these requirements do not apply if the cultural arts institution facility is to be operated by the National Park Service.

Operating Reserve

This bill removes a provision of current law that authorizes the authority to award to certain cultural arts institutions, in addition to the tax credit award otherwise provided for under the program, a tax credit valued at up to 100 percent of an operating reserve, as determined by the authority. Current law defines an "operating reserve" to mean an unrestricted fund balance set aside to stabilize a nonprofit's finances to mitigate against unexpected events, losses of income, and large unbudgeted expenses.

Construction Prior to Application Date

Under current law, an applicant is required to demonstrate that construction has not commenced at the site of the cultural arts project prior to submitting an application, unless the authority determines that the cultural arts project would not be completed without an award of tax credits under the program.

This bill amends this requirement to permit some construction prior to the submission of an application, provided that the construction activities are limited to general maintenance, demolition, environmental assessment, environmental investigation, and environmental remediation. Furthermore, if an applicant has commenced construction on a project before the submission of an application, the bill authorizes the applicant to include, within the required minimum $5 million capital investment for a proposed cultural arts project, costs incurred before application that would have otherwise qualified as project costs.

Application Process

Current law requires the authority to implement a competitive application process for the program. Instead, this bill requires the authority to conduct a review of applications on a rolling basis, unless the authority determines that demand is likely to exceed available tax credits, at which time the authority may instead implement a competitive application process whereby the authority is required to evaluate all applications submitted by a date certain as if all were submitted on that date.

Under current law, an application is required to demonstrate that a cultural arts institution will partner with one or more local community organizations that provide support and services to Work

First New Jersey program recipients, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients. The bill amends this provision to require instead that an application demonstrate, unless the cultural arts institution facility is to be operated by the National Park Service, that the cultural arts institution either: (1) will provide support and services to Work First New Jersey program recipients during the eligibility period; or (2) has provided support and services to Work First New Jersey program recipients on or after December 21, 2023.

Use of Transferred Tax Credits

Under current law, the transferee to whom a tax credit certificate is transferred under the program may carry forward all or part of the tax credit amount in any of the next five successive tax periods.

This bill amends this provision to permit a transferee to use the credit in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. Under the bill, the transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in the bill, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. The transferee may carry forward an unused credit for use in any of the next five successive tax periods, and the unused credit expires thereafter.

New Jersey Aspire Program Revisions

Under current law governing the Aspire Program, the term "health care or health services center" is defined as an establishment that consists of not less than 10,000 square feet devoted to health care or health services, where patients are admitted for or seek examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, and which is located in a municipality with a Municipal Revitalization Index (MRI) distress score of at least 50, a distressed municipality, or a qualified incentive tract. This bill expands this definition to additionally include such an establishment that is located on land owned by the federal government of the United States on or before December 31, 2005.

This bill also provides that, for applications submitted under the Aspire Program on or after the bill's effective date, a redevelopment project is deemed to constitute a project of special economic importance if the redevelopment project is a health care or health services center that: is associated with, and located on, the same complex as a new or existing university, academic, or medical research center, institution, or facility; is an establishment that is associated with a National Cancer Institute Designated Comprehensive Cancer Center that is engaged in cancer research; is a transformative expansion of healthcare services by an academic medical and research center located in a distressed

municipality that is adjacent to existing clinical facilities; or is a project located at a State-designated trauma center.

Availability of Certain Uncommitted Tax Credits

The bill provides that if the authority awards less than the annual limitation of tax credits allocated for the Aspire Program and the Emerge Program, not including transformative projects, then up to $500 million of the uncommitted credits may also be made available to cultural arts institutions awarded a tax credit pursuant to the Cultural Arts Incentives Program Act, among other purposes for which the authority may use such uncommitted credits under current law.

Grow New Jersey Program

Under current law, a business may elect to suspend certain Grow New Jersey Program obligations for the 2020, 2021, 2022, 2023, or 2024 tax period, or any combination thereof, due to the COVID-19 pandemic, provided that the business makes such election in writing to the authority before the issuance of the tax credit for the corresponding tax year. This bill extends that deadline so that a business may suspend those obligations, provided that the business make such election in writing to the authority no later than December 31, 2025, without a requirement that the suspended obligations for the 2020, 2021, 2022, 2023, or 2024 tax period be due to the COVID-19 pandemic.

Repeal of New Jersey Community-Anchored Development Act

Under current law, a total of $1.2 billion in tax credits may be awarded under the program and the New Jersey Community-Anchored Development Program. The authority is scheduled to begin accepting applications under the New Jersey Community-Anchored Development Program in 2026.

This bill repeals the New Jersey Community-Anchored Development Act that established the New Jersey Community-Anchored Development Program.

As amended and reported by the committee, Senate Bill No. 4255 (1R) is identical to Assembly Bill No. 5378 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) expand the definition of "cultural arts institution" to include any entity that has a mission of, or experience in, cultural, educational, or artistic enrichment of the people of this State, rather than having the mission and specific policy goal of cultural, educational, or artistic enrichment of the people of this State;

(2) include within the definition of a "cultural arts institution" any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts, as well as any developer that has

a partnership agreement with the National Park Service. The amendments also remove language that would have included the National Park Service within this definition;

(3) expand the definition of "cultural arts institution facility" to include a national historic park and a war memorial or museum;

(4) remove a provision of the bill that would have amended the current definition of "project cost" to exclude costs incurred by a cultural arts institution for construction activities undertaken prior to the date of application for the program;

(5) permit a cultural arts institution to include costs incurred before the date of application within the required minimum $5 million capital investment for a proposed cultural arts project, provided that the costs would have otherwise qualified as project costs;

(6) remove language from the bill that would have exempted a cultural arts institution facility to be operated by a developer that has a partnership agreement with the cultural arts institution from the requirement to demonstrate the structure and terms of the financial, corporate, and real estate instruments to be utilized to operate the cultural arts institution facility;

(7) remove "necessary repairs" from the list of construction activities for which an exception is provided to the requirement that construction not have commenced at the site of a cultural arts project prior to submitting an application;

(8) amend a current application requirement to provide that, unless the cultural arts institution facility is to be operated by the National Park Service, demonstrate that the cultural arts institution either: (a) will provide support and services to Work First New Jersey program recipients during the eligibility period; or (b) have provided support and services to Work First New Jersey program recipients on or after December 21, 2023. Under current law, an application is required to demonstrate that during the eligibility period the cultural arts institution will partner with one or more local community organizations that provide support and services to Work First New Jersey program recipients, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients;

(9) remove language from the bill that would have exempted a cultural arts institution facility to be operated by a developer that has a partnership agreement with the cultural arts institution from the requirement to demonstrate that the cultural arts institution will have ownership of, or lease space in, the cultural arts institution facility and operate or hold an operating agreement for at least the eligibility period;

(10) amend the definition of "health care or health services center" under the Aspire Program to mean an establishment that consists of not less than 10,000 square feet devoted to health care or health services, where patients are admitted for or seek examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, and which is located in a municipality with an MRI

distress score of at least 50, a distressed municipality, or a qualified incentive tract, or is located on land owned by the federal government of the United States on or before December 31, 2005. Under current law, location on land owned by the federal government on or before December 31, 2005 is not included in this definition;

(11) provide that, for applications submitted under the Aspire Program on or after the bill's effective date, a redevelopment project is deemed to constitute a project of special economic importance if the redevelopment project is a health care or health services center that: is associated with, and located on, the same complex as a new or existing university, academic, or medical research center, institution, or facility; is an establishment that is associated with a National Cancer Institute Designated Comprehensive Cancer Center that is engaged in cancer research; is a transformative expansion of healthcare services by an academic medical and research center located in a distressed municipality that is adjacent to existing clinical facilities; or is a project located at a State-designated trauma center;

(12) provide that if the authority awards less than the annual limitation of tax credits under the New Jersey Aspire Program and the Emerge Program, then up to $500 million of the uncommitted credits may also be made available to cultural arts institutions awarded a tax credit pursuant to the Cultural Arts Incentives Program Act; and

(13) extend the deadline to suspend certain obligations under the Grow New Jersey Act until December 31, 2025, removing a current requirement that the suspended obligations for the 2020, 2021, 2022, 2023, or 2024 tax period be due to the COVID-19 pandemic.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 4255

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JUNE 25, 2025

SUMMARY

Synopsis:	Modifies provisions of Cultural Arts Incentives Program; eliminates Community-Anchored Development Program.
Type of Impact:	Indeterminate impact on State costs. Indeterminate impact on State revenues.
Agencies Affected:	Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	**FY 2025 & Thereafter**
State Expenditure Impact	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill would result in an indeterminate State fiscal impact. Specifically, the bill expands eligibility under the Cultural Arts Incentives Program administered by the New Jersey Economic Development Authority and eliminates the allowance for additional tax credits to be awarded under the Cultural Arts Incentives Program to support the operating reserves of certain non-profit institutions. The bill also eliminates the New Jersey Community-Anchored Development Program.

- The OLS is unable to determine the fiscal impact of the bill on State revenues as it depends on several factors, including the number of newly eligible applicants under the expanded eligibility criteria for the Cultural Arts Incentives Program, the offsetting effect of eliminating the operating reserve tax credit provision for nonprofits, and the overall utilization of the Cultural Arts Incentives Program.

BILL DESCRIPTION

The bill modifies the Cultural Arts Incentives Program and eliminates the Community-Anchored Development Program. The bill modifies the definition of "cultural arts institution" to include entities whose mission addresses cultural, educational, or artistic enrichment, rather than having it be their primary mission. The bill also expands eligibility to include the National Park Service and developers that have a partnership agreement with any qualified cultural arts institution. Additionally, the bill expands the scope of eligible cultural arts institution facilities to include national historical parks and related facilities.

The bill eliminates a provision of current law that allows the authority to award additional tax credits under the Cultural Arts Incentives Program to certain non-profit cultural arts institutions in an amount up to 100 percent of the institution's operating reserve.

The bill also modifies the application process for the Cultural Arts Incentives Program by requiring the authority to conduct a review of applications on a rolling basis, rather than through a competitive application process, unless the authority determines that demand is likely to exceed available tax credits. Finally, the bill eliminates the Community-Anchored Development Program, which has not yet begun accepting applications.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill would result in an indeterminate State fiscal impact. The OLS is unable to determine the magnitude or direction of the bill's fiscal impact as it depends on several factors, including the number of newly eligible applicants under the expanded eligibility criteria for the Cultural Arts Incentives Program, the offsetting effect of eliminating the operating reserve tax credit provision for nonprofits, and the overall utilization of the Cultural Arts Incentives Program.

Specifically, the bill expands eligibility under the Cultural Arts Incentives Program administered by the authority and eliminates the allowance for additional tax credits to be awarded under the Cultural Arts Incentives Program to support the operating reserves of certain non-profit institutions. The bill also eliminates the New Jersey Community-Anchored Development Program.

The expanded eligibility for the Cultural Arts Incentives Program would include entities whose mission addresses cultural, educational, or artistic enrichment rather than requiring it to be their primary mission. The National Park Service and developers with partnership agreements with qualifying cultural arts institutions would also become eligible. Additionally, national historical parks and related facilities would be included in the scope of eligible cultural arts institution facilities. These changes may increase State revenue losses through the issuance of tax credits for projects that would not qualify under current law.

The bill also eliminates the provision allowing the authority to award additional tax credits to non-profit cultural arts institutions based on their operating reserves. Under current law, these institutions can receive tax credits up to 100 percent of their operating reserve, defined as an unrestricted fund balance set aside to stabilize finances against unexpected events, income losses,

or unbudgeted expenses. Eliminating this provision is expected to reduce the maximum value of tax credits awarded to certain institutions, potentially increasing long-term State revenues.

The elimination of the Community-Anchored Development Program may result in long-term State revenue increases due to the potential reduction in the issuance of otherwise authorized tax credits. Currently, a total of $1.2 billion in tax credits may be awarded under both programs, though the Community-Anchored Development Program is not scheduled to begin accepting applications until 2026. Under the bill, the entire $1.2 billion allocation would be available for the Cultural Arts Incentives Program alone. If this program does not fully utilize the allocation, the State could realize higher revenues than it otherwise would if the tax credits were fully utilized. However, this potential long-term benefit cannot be quantified with certainty as it depends on future program utilization rates.

The bill is also unable to determine the magnitude or direction of the bill's impact on State expenditures. By expanding eligibility for the Cultural Arts Incentives Program, the bill is expected to increase State administrative costs associated with the processing of additional program applications. However, the bill is also expected to reduce State administrative costs by eliminating the Community-Anchored Development Program. The OLS is unable to determine the net effect of these countervailing impacts.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Patrick Walsh* *Associate Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

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

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

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 4255

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 3, 2025

SUMMARY

Synopsis:	Modifies provisions of Cultural Arts Incentives Program, New Jersey Aspire Program, and Grow New Jersey Program; eliminates Community-Anchored Development Program.
Type of Impact:	Indeterminate impact on State costs. Indeterminate impact on State revenues.
Agencies Affected:	Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	**FY 2025 & Thereafter**
State Expenditure Impact	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill would result in an indeterminate State fiscal impact. The bill expands eligibility under the Cultural Arts Incentives Program administered by the New Jersey Economic Development Authority, provides up to $500 million annually for the program from available tax credits beginning in FY 2026, and eliminates the allowance for additional tax credits to be awarded under the Cultural Arts Incentives Program to support the operating reserves of certain non-profit institutions. The bill also eliminates the New Jersey Community-Anchored Development Program.

- The OLS is unable to determine the fiscal impact of the bill on State revenues as it depends on several factors, including the number of newly eligible applicants under the significantly expanded eligibility criteria for the Cultural Arts Incentives Program, the utilization of the $500 million annual allocation, the offsetting effect of eliminating the operating reserve tax credit provision for nonprofits, and the overall utilization of the Cultural Arts Incentives Program.

BILL DESCRIPTION

The bill modifies the Cultural Arts Incentives Program and eliminates the Community-Anchored Development Program. The bill modifies the definition of "cultural arts institution" to include entities whose mission or experience addresses cultural, educational, or artistic enrichment, rather than having it be their primary mission. The bill also expands eligibility to include any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts and developers that have a partnership agreement with the National Park Service. Additionally, the bill expands the scope of eligible cultural arts institution facilities to include national historical parks, war memorials or museums, and related facilities.

Beginning in FY 2026, the bill provides that up to $500 million annually of uncommitted tax credits from the New Jersey Aspire Program and Emerge Program allocations be made available for Cultural Arts Incentives Program projects.

The bill eliminates a provision of current law that allows the authority to award additional tax credits under the Cultural Arts Incentives Program to certain non-profit cultural arts institutions in an amount up to 100 percent of the institution's operating reserve.

The bill also modifies the application process for the Cultural Arts Incentives Program by requiring the authority to conduct a review of applications on a rolling basis, rather than through a competitive application process, unless the authority determines that demand is likely to exceed available tax credits. The bill also allows certain pre-construction costs to be included in eligible project costs and provides alternative compliance paths for Work First New Jersey program requirements. Finally, the bill eliminates the Community-Anchored Development Program, which has not yet begun accepting applications.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill would result in an indeterminate State fiscal impact. The OLS is unable to determine the magnitude or direction of the bill's fiscal impact as it depends on several factors, including the number of newly eligible applicants under the significantly expanded eligibility criteria for the Cultural Arts Incentives Program, the utilization of the $500 million annual allocation, the offsetting effect of eliminating the operating reserve tax credit provision for nonprofits, and the overall utilization of the Cultural Arts Incentives Program.

Specifically, the bill significantly expands eligibility under the Cultural Arts Incentives Program administered by the authority, provides up to $500 million annually for the program from available tax credits beginning in FY 2026, and eliminates the allowance for additional tax credits to be awarded under the Cultural Arts Incentives Program to support the operating reserves of certain non-profit institutions. The bill also eliminates the New Jersey Community-Anchored Development Program.

The expanded eligibility for the Cultural Arts Incentives Program would include entities whose mission or experience addresses cultural, educational, or artistic enrichment rather than requiring it to be their primary mission. Any nonprofit that operates a museum or memorial honoring New Jersey veterans of foreign military conflicts and developers with partnership agreements with the

National Park Service would also become eligible. Additionally, national historical parks, war memorials or museums, and related facilities would be included in the scope of eligible cultural arts institution facilities. These changes may increase State revenue losses through the issuance of tax credits for projects that would not qualify under current law.

Beginning in FY 2026, the bill provides that up to $500 million annually from the New Jersey Aspire Program and Emerge Program allocations may be made available for Cultural Arts Incentives Program projects. This represents an increase in potential funding beyond the current $1.2 billion allocation shared between the Cultural Arts Incentives Program and the Community-Anchored Development Program.

The bill also eliminates the provision allowing the authority to award additional tax credits to non-profit cultural arts institutions based on their operating reserves. Under current law, these institutions can receive tax credits up to 100 percent of their operating reserve, defined as an unrestricted fund balance set aside to stabilize finances against unexpected events, income losses, or unbudgeted expenses. Eliminating this provision is expected to reduce the maximum value of tax credits awarded to certain institutions, potentially increasing long-term State revenues.

The elimination of the Community-Anchored Development Program may result in long-term State revenue increases due to the potential reduction in the issuance of otherwise authorized tax credits. Currently, a total of $1.2 billion in tax credits may be awarded under both programs, though the Community-Anchored Development Program is not scheduled to begin accepting applications until 2026. Under the bill, the entire $1.2 billion allocation would be available for the Cultural Arts Incentives Program alone, and up to $500 million annually of uncommitted tax credits from the New Jersey Aspire Program and Emerge Program would become available to the Cultural Arts Incentives Program starting in FY 2026. If these programs do not fully utilize these allocations, the State could realize higher revenues than it otherwise would if the tax credits were fully utilized. However, this potential long-term benefit cannot be quantified with certainty as it depends on future program utilization rates.

The OLS is unable to determine the magnitude or direction of the bill’s impact on State expenditures. By expanding eligibility for the Cultural Arts Incentives Program, the bill is expected to increase State administrative costs associated with the processing of additional program applications. However, the bill is also expected to reduce State administrative costs by eliminating the Community-Anchored Development Program. The OLS is unable to determine the net effect of these countervailing impacts.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Patrick Walsh* *Associate Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

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

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

Governor Murphy Takes Action on Legislation

Posted on - 08/15/2025

TRENTON – Today, Governor Murphy signed the following bills into law:

A-5378/S-4225 (Abdelaziz, Sumter, Carter/Wimberly, Turner) - Modifies provisions of Cultural Arts Incentives Program, New Jersey Aspire Program, and Grow New Jersey Program; eliminates Community-Anchored Development Program

A-5447/S-4282 (Calabrese, Stanley, Sampson/Burzichelli, McKeon) - Prohibits sweepstakes model of wagering; establishes new penalties for unlawful gambling operations and practices; directs Division of Consumer Affairs and Division of Gaming Enforcement to enforce penalties

S-4377/A-5623 (Diegnan/Calabrese) - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for transportation infrastructure projects for FY2026; makes appropriation

S-4467/A-5621 (Wimberly, Turner/Simmons, Kennedy, Tucker) - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for environmental infrastructure projects for FY2026

S-4511/A-5858 (McKnight, Turner/Sampson, Stanley, Ramirez) - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for Community Hazard Assistance Mitigation Program projects for FY2026