

SENATE, No. 4011

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 26, 2023

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

Modifies New Jersey Community-Anchored Development Program.

CURRENT VERSION OF TEXT

As introduced.



S4011 RUIZ

2

1 AN ACT concerning the New Jersey Community-Anchored
2 Development Program, and amending P.L.2020, c.156.

3

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

6

7 1. Section 45 of P.L.2020, c.156 (C.34:1B-313) is amended to
8 read as follows:

9 45. As used in sections 43 through 53 of P.L.2020, c.156
10 (C.34:1B-311 through C.34:1B-321):

11 "Affiliate" means an entity that directly or indirectly controls, is
12 under common control with, or is controlled by an anchor
13 institution partner anchor institution, or a partner business. Control
14 exists in all cases in which the entity is a member of a controlled
15 group of corporations as defined pursuant to section 1563 of the
16 federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an
17 organization in a group of organizations under common control that
18 is subject to the regulations applicable to organizations pursuant to
19 subsection (b) or (c) of section 414 of the federal Internal Revenue
20 Code (26 U.S.C. s.414). A taxpayer may establish by clear and
21 convincing evidence, as determined by the Director of the Division
22 of Taxation in the Department of the Treasury, that control exists in
23 situations involving lesser percentages of ownership than required
24 by the above referenced federal statutes.

25 "Anchor institution" means a governmental entity, a cultural arts
26 institution, or experienced nonprofit or governmental economic or
27 community development entity incorporated pursuant to Title 15 of
28 the Revised Statutes or Title 15A of the New Jersey Statutes,
29 undertaking a project having a primary mission and specific policy
30 goals **[that align with those of the authority under the program and**
31 **that is a comprehensive health care system, a public research**
32 **university, a private research university, a major cultural scientific,**
33 **research, or philanthropic institution, or a public college which is**
34 **separate from public research universities, or an experienced**
35 **nonprofit or governmental economic or community development**
36 **entity certified as an anchor institution by the board pursuant to**
37 **subsection a. of section 46 of P.L.2020, c.156 (C.34:1B-314)]** in
38 the fields of arts, culture, comprehensive healthcare services, or life
39 science research and innovation.

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

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

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

Matter underlined thus is new matter.

1 "Commitment period" means the period of time, which shall be
2 not less than 10 years and no greater than twice the eligibility
3 period that is granted to an anchor institution **【or, if applicable, a**
4 **partner anchor institution】**, to distribute to the authority the agreed
5 upon returns on investment for the award of tax credits pursuant to
6 the program; provided, however, at the election of the authority or
7 upon the request of an anchor institution **【or, if applicable, a partner**
8 **anchor institution】** in order to benefit the community-anchored
9 project, and as determined in the sole discretion of the authority, the
10 authority may grant up to two consecutive five-year extensions of
11 the commitment period. The commitment period for a grant shall
12 be not less than 10 years and shall be reflected in the grant
13 agreement.

14 "Community-anchored project" means a capital project that is
15 located in an incentive area **【that is designated as a New Jersey**
16 **State opportunity zone, an area of the State designated pursuant to**
17 **the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.),**
18 **as Planning Area 1 (Metropolitan), or a municipality with a**
19 **Municipal Revitalization Index distress score of at least 50 and】** for
20 which an anchor institution **【and, if applicable, any partner anchor**
21 **institution】** is to be awarded a grant by the authority pursuant to a
22 grant agreement, or tax credits by the authority pursuant to a tax
23 credit agreement **【which】** that establishes the award of tax credits
24 as an investment by the authority in the project, provided that the
25 project for which the grant or tax credits are awarded will result in a
26 capital investment of at least **【\$10,000,000】** \$2,000,000 in a New
27 Jersey State opportunity zone or in any other area of the State, but a
28 project that is not located in a New Jersey State opportunity zone is
29 to be primarily designed to result in the economic expansion of a
30 targeted industry in this State.

31 **【"Comprehensive health care system" means an entity in this**
32 **State with the primary purpose of offering comprehensive health**
33 **care services.】**

34 "Comprehensive health care services" means the basic health
35 care services provided under a health benefits plan, including
36 medical and surgical services provided by licensed health care
37 providers who may include, but are not limited to, family
38 physicians, internists, cardiologists, psychiatrists, rheumatologists,
39 dermatologists, orthopedists, obstetricians, gynecologists,
40 neurologists, endocrinologists, radiologists, nephrologists,
41 emergency services physicians, ophthalmologists, pediatricians,
42 pathologists, general surgeons, osteopathic physicians, physical
43 therapists and chiropractors. Basic benefits may also include
44 inpatient or outpatient services rendered at a licensed hospital,
45 covered services performed at an ambulatory surgical facility, and
46 ambulance services. "Comprehensive health care services" shall
47 include only services provided by licensed health care providers.

S4011 RUIZ

4

1 "Cultural arts institution" means an existing or proposed facility
2 within this State that engages in the cultural, educational, or artistic
3 enrichment of the people of this State through the operation of a
4 venue that has a primary purpose of hosting live performances, a
5 museum, or any related educational facilities.

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

8 "Eligibility period" means the period in which an anchor
9 institution **【**or, if applicable, a partner anchor institution**】** may
10 claim, sell, transfer, or otherwise use a tax credit under the New
11 Jersey Community-Anchored Development Program, beginning
12 with the tax period in which the authority accepts certification of
13 the business that it has met the capital investment requirements of
14 the program and extending thereafter for a term of not more than 10
15 years.

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

20 "Experienced nonprofit or governmental economic or community
21 development entity" means a nonprofit entity incorporated pursuant
22 to Title 15 of the Revised Statutes or Title 15A of the New Jersey
23 Statutes with a substantial number of years of experience that has a
24 core mission and a community track record of advancing economic
25 or community development in at least one area of the State, that the
26 senior management has undertaken multiple successful partnerships
27 with government entities, educational institutions, and the private
28 sector in carrying out development projects, that has successfully
29 developed multiple types of mixed-use projects, and that has
30 appropriate prior experience in successfully developing mixed-use
31 projects of comparable or greater size, value and complexity to that
32 being proposed, structuring, securing, and utilizing complex
33 financing in the development of projects of comparable or greater
34 size, value, and complexity to that being proposed, as determined
35 by the board. An experienced nonprofit or governmental economic
36 or community development entity shall not be eligible to participate
37 in the program in connection with a project that is primarily
38 residential or retail.

39 "Grant agreement" means an agreement entered into between the
40 authority and a cultural arts institution.

41 **【**"Major cultural institution" means a public or nonsectarian
42 nonprofit institution within this State that engages in the cultural,
43 intellectual, scientific, environmental, educational, or artistic
44 enrichment of the people of this State, and which is designated by
45 the board as a major cultural institution.**】**

46 "Incentive area" means any location eligible for an incentive
47 award under the "New Jersey Aspire Program Act," sections 54
48 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

S4011 RUIZ

1 "New full-time job" means an eligible position created by an
2 anchor institution~~], partner anchor institution]~~ or a partner business
3 at the community-anchored project that did not previously exist in
4 this State. For the purposes of determining a number of new full-
5 time jobs, the eligible positions of an affiliate shall be considered
6 eligible positions of the business.

7 "New Jersey State opportunity zone" means a federal population
8 census tract in this State that was eligible to be designated as a
9 qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

10 ~~["Partner anchor institution" means an anchor institution that~~
11 ~~partners with one or more anchor institutions to make an equity~~
12 ~~investment in or to provide a loan or other financial support for a~~
13 ~~community-anchored project.]~~

14 "Partner business" means a corporation, partnership, firm,
15 enterprise, franchise, association, trust, sole proprietorship, or other
16 legal entity, but shall not include a public entity that enters into an
17 agreement with an anchor institution ~~or, if applicable, a partner~~
18 ~~anchor institution]~~ to rent and occupy commercial space within a
19 community-anchored project. Under the program a partner business,
20 subject to agreement with the anchor institution ~~or, if applicable, a~~
21 ~~partner anchor institution]~~, may lease one or more portions of the
22 partner business's space in the community-anchored project to one
23 or more other persons or entities.

24 "Private research university" means Princeton University and any
25 other institution of higher education in this State designated by the
26 board as a private research university, based on criteria and metrics
27 established by the board.

28 "Program" means the New Jersey Community-Anchored
29 Development Program established pursuant to section 46 of
30 P.L.2020, c.156 (C.34:1B-314).

31 "Public research university" means Rutgers, The State University
32 of New Jersey, Rowan University, the New Jersey Institute of
33 Technology, and Montclair State University.

34 "Qualified business accelerator or incubator facility" means a
35 commercial space that contains office, laboratory, or industrial
36 space and which is located near, and presents opportunities for
37 collaboration with, a public research university, a private research
38 university, teaching hospital, college, or university, and within
39 which at least 50 percent of the gross leasable area is restricted for
40 use by one or more targeted industry start-up companies during the
41 commitment period.

42 "Targeted industry" means any industry identified from time to
43 time by the authority which shall initially include advanced
44 transportation and logistics, advanced manufacturing, aviation,
45 autonomous vehicle and zero-emission vehicle research or
46 development, clean energy, life sciences, hemp processing,
47 information and high technology, finance and insurance,

1 professional services, film and digital media, non-retail food and
2 beverage businesses including food innovation, and other
3 innovative industries that disrupt current technologies or business
4 models.

5 "Tax credit agreement" means a tax credit agreement entered into
6 pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) between
7 the authority and an anchor institution **【or, if applicable, a partner
8 anchor institution】**.

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

12 (cf: P.L.2021, c.160, s.18)

13

14 2. Section 46 of P.L.2020, c.156 (C.34:1B-314) is amended to
15 read as follows:

16 46. a. The New Jersey Community-Anchored Development
17 Program is established as a program under the jurisdiction of the
18 New Jersey Economic Development Authority. The authority shall
19 administer the program **【to invest in and incentivize the expansion
20 of targeted industries in the State and the continued development of
21 certain areas of the State through the provision of tax credits to an
22 anchor institution and, if applicable, partner anchor institutions. The
23 board shall certify a qualified anchor institution and, if applicable,
24 qualified partner anchor institutions based on the requirements of
25 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
26 C.34:1B-321), and may approve the award of a tax credit to an
27 anchor institution pursuant to section 49 of P.L.2020, c.156
28 (C.34:1B-317). The value of all tax credits approved by the
29 authority to an anchor institution and, if applicable, partner anchor
30 institutions under the program shall be subject to the limitations set
31 forth in section 98 of P.L.2020, c.156 (C.34:1B-362)】**.

32 b. (1) (a) The authority shall administer the program to **【invest
33 in, and】** incentivize the establishment of **【,】** community-anchored
34 projects by an anchor institution **【and, if applicable, partner anchor
35 institutions,】** independently or in collaboration with one or more
36 partner businesses or governmental entities. **【The authority's
37 investment in community-anchored projects shall be in the form of
38 the award of tax credits to an anchor institution and, if applicable,
39 partner anchor institutions.】** For a community-anchored project
40 involving the development or rehabilitation of a structure utilized
41 by a cultural arts institution, the authority's contribution to the
42 project shall be in the form of small, medium, and large grants,
43 funded by the proceeds of an auction pursuant to subsection e. of
44 this section. For a project with a total cost of less than
45 \$10,000,000, the authority's contribution to the project shall be in
46 the form of a small grant, the amount of which shall not exceed
47 \$10,000,000. For a project with a total cost greater than

1 \$10,000,000 but equal to or less than \$90,000,000, the authority's
2 contribution to the project shall be in the form of a medium grant,
3 the amount of which shall not exceed \$40,000,000. For a project
4 with a total cost that exceeds \$90,000,000, the authority's
5 contribution to the project shall be in the form of a large grant, the
6 amount of which shall not exceed \$75,000,000.

7 (b) To be eligible for a grant pursuant to this paragraph, an
8 applicant shall demonstrate to the authority the following: the
9 applicant's need for funding to complete the project; and all other
10 sources of funding obtained by the applicant for the completion of
11 the project.

12 (2) (a) The authority may award a tax credit to an anchor
13 institution **【and, if applicable, one or more partner anchor**
14 **institutions under the program】**, which the anchor institution **【and,**
15 **if applicable, each partner anchor institution】** shall **【convert into】**
16 consider an investment by the authority in a community-anchored
17 project, subject to the condition that the anchor institution **【and, if**
18 **applicable, each partner anchor institution either】** sell and transfer
19 the tax credits, or adopt a plan to use the tax credits in order to
20 finance the completion of the community-anchored project, which
21 condition shall be included in the tax credit agreement entered into
22 pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318). An anchor
23 institution **【and, if applicable, each partner anchor institution】**
24 receiving tax credits under the program shall use the proceeds
25 derived from the sale or financing of the tax credits to make an
26 equity investment in or to provide a loan or other financial support
27 for the community-anchored project that will permit the anchor
28 institution**【, and, if applicable, a partner business, a partner anchor**
29 **institution, or both】** to develop the community-anchored project and
30 to attract tenants, owners, investors, lenders, partners, collaborators,
31 and other beneficial parties to the community-anchored project. A
32 tax credit agreement, entered into pursuant to section 50 of
33 P.L.2020, c.156 (C.34:1B-318) shall detail the terms by which an
34 anchor institution **【and, if applicable, each partner anchor**
35 **institution】** will convert the award of tax credits into an investment
36 by the authority into the community-anchored project, subject to
37 potential returns on investment to the authority based on an agreed-
38 upon formula for the distribution of returns, including upon the sale
39 of a community-anchored project or at the end of the commitment
40 period. For community-anchored projects **【financed solely by**
41 **governmental and nonprofit entity investments】**, the authority shall
42 negotiate an agreed upon formula which shall include, but not be
43 limited to, the potential recapture of the value of the tax credits
44 awarded based upon the financial success of the project. **【For**
45 **community-anchored projects that are not financed solely by**
46 **governmental and nonprofit entity investments, the authority shall**
47 **negotiate an agreed upon formula which shall include, but not be**

1 limited to, the potential recapture of the value of the tax credits
2 awarded and additional returns on investment.】 The tax credit
3 agreement shall, however, specify that the authority's interest in the
4 community-anchored project shall be subordinate to the investments
5 made by an anchor institution 【and, if applicable, each partner
6 anchor institution】 and partner businesses. References to
7 investments and returns in sections 43 through 53 of P.L.2020,
8 c.156 (C.34:1B-311 through C.34:1B-321) shall also include loans
9 and other financial support and their corresponding returns.

10 (b) Consistent with an applicable tax credit agreement, a tax
11 credit awarded to an anchor institution 【and, if applicable, each
12 partner anchor institution for conversion into an authority
13 investment, as provided pursuant to subparagraph (a) of this
14 paragraph】, may be applied against tax liability otherwise due
15 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to
16 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
17 pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), 【or】
18 pursuant to N.J.S.17B:23-5, or pursuant to the “New Jersey Gross
19 Income Tax Act,” N.J.S.54A:1-1 et seq.

20 (3) The authority shall develop protocols for assumptions testing
21 relating to projected and actual returns on investment under the
22 program and regularly analyze the returns on investment received
23 by the authority under the program, and shall evaluate future
24 applications and projections considering the results of the
25 assumptions testing and analysis.

26 c. The authority shall engage in program evaluation and
27 assumptions testing to ensure that the authority at least recaptures
28 the value of the tax credits awarded to all anchor institutions 【and,
29 if applicable, partner anchor institutions】 and realizes additional
30 returns on investment under the program; provided, however, that
31 for community-anchored projects financed solely by governmental
32 and nonprofit entity investments, the authority may negotiate a
33 potential return on investment, the calculation of which would
34 include, but not be limited to, recapture of the value of the tax
35 credits awarded for those community-anchored projects financed
36 solely by governmental and nonprofit entities.

37 d. Any funds distributed to the authority as a return on
38 investment pursuant to the program shall be deposited into the
39 General Fund of the State.

40 e. An incentive award to a community-anchored project
41 involving the development or rehabilitation of structure utilized by
42 a cultural arts institution shall be in the form of a grant not to
43 exceed \$75,000,000 per project. In support of the grant program,
44 the authority shall auction: \$150,000,000 in tax credits in the fiscal
45 year ending June 30, 2024; \$150,000,000 in tax credits in the fiscal
46 year ending June 30, 2025; and \$100,000,000 in tax credits in the
47 fiscal year ending June 30, 2026. The \$400,000,000 in tax credits

1 auctioned over this period shall be derived from the tax credits
2 authorized for the New Jersey Community-Anchored Development
3 Program that were unused in the fiscal years ending June 30, 2021,
4 June 30, 2022, and June 30, 2023. The authority shall determine
5 the form and manner in which potential purchasers may bid for tax
6 credits auctioned pursuant to this subsection. To be awarded a tax
7 credit auctioned pursuant to this subsection, a potential purchaser
8 shall:

9 (1) specify the amount the potential purchaser will pay in
10 exchange for the requested amount of tax credits, which shall not be
11 less than 75 percent of the requested dollar amount of tax credits;
12 and

13 (2) provide any other information that the chief executive
14 officer of the authority determines is necessary.

15 A tax credit auctioned pursuant to this subsection may be applied
16 against tax liability otherwise due pursuant to section 5 of P.L.1945,
17 c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132
18 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950,
19 c.231 (C.17:32-15), pursuant to N.J.S.17B:23-5, or pursuant to the
20 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

21 f. The authority shall establish and maintain a dedicated fund
22 to be known as the "New Jersey Cultural Institution Fund." The
23 authority shall use the money in the fund to carry out the purposes
24 of the grant portion of the New Jersey Community-Anchored
25 Development Program. The authority shall credit the fund with the
26 proceeds of the auction authorized pursuant to subsection e. of this
27 section.

28 (cf: P.L.2020, c.156, s.46)

29
30 3. Section 47 of P.L.2020, c.156 (C.34:1B-315) is amended to
31 read as follows:

32 47. a. An anchor institution **【and, if applicable, each partner**
33 **anchor institution】** shall be eligible to receive a tax credit under the
34 program only if the anchor institution **【and, if applicable, each**
35 **partner anchor institution】** submits a program application to the
36 authority that results in completion of a community-anchored
37 project through a capital investment in **【a New Jersey State**
38 **opportunity zone or, if the community-anchored project is primarily**
39 **designed to result in the economic expansion of a targeted industry**
40 **in this State, in an area of the State designated pursuant to the "State**
41 **Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning**
42 **Area 1 (Metropolitan) or in a municipality with a Municipal**
43 **Revitalization Index distress score of at least 50】 an incentive area.**

44 b. At the time of application, an anchor institution **【and, if**
45 **applicable, each partner anchor institution】** seeking tax credits
46 pursuant to the program shall demonstrate to the authority:

- 1 (1) that the proposed community-anchored project will result in
2 a capital investment in **【a New Jersey State opportunity zone or, if**
3 **the project is primarily designed to result in the economic**
4 **expansion of a targeted industry in this State, in an area of the State**
5 **designated pursuant to the "State Planning Act," P.L.1985, c.398**
6 **(C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a**
7 **municipality with a Municipal Revitalization Index distress score of**
8 **at least 50】 an incentive area;**
- 9 (2) the structure and terms of the financial, corporate, and real
10 estate instruments to be utilized to successfully complete and then
11 operate the community-anchored project, including, but not limited
12 to, the proposed economic and business relationship between the
13 anchor institution and, if applicable, each **【partner anchor**
14 **institution and any】 partner business;**
- 15 (3) **【that the anchor institution and, if applicable, each partner**
16 **anchor institution, along with any partner business and each partner**
17 **institution participating in a community-anchored project,】**
18 **construction has not commenced 【any construction】 at the site of**
19 **the community-anchored project prior to submitting an application,**
20 **unless the authority determines that the community-anchored**
21 **project would not be completed otherwise or, in the event the**
22 **community-anchored project is to be undertaken in phases, the**
23 **requested tax credit covers only phases for which construction has**
24 **not yet commenced;**
- 25 (4) the value of the tax credit that is necessary in each year of
26 the eligibility period, in order for the anchor institution **【and, if**
27 **applicable, each partner anchor institution】** to finance the
28 establishment of the community-anchored project;
- 29 (5) the total aggregate value of the tax credit for the entire
30 eligibility period that is necessary in order for the anchor institution
31 **【and, if applicable, each partner anchor institution】** to finance the
32 establishment of the community-anchored project;
- 33 (6) that the award of tax credits under the program will be
34 **【converted into】 considered an investment by the authority into the**
35 **community-anchored project, and demonstrate to the authority the**
36 **anticipated current and deferred returns, as applicable, on that**
37 **investment;**
- 38 (7) that the community-anchored project shall comply with the
39 standards established by the authority through regulation based on
40 the green building manual prepared by the Commissioner of
41 Community Affairs pursuant to section 1 of P.L.2007, c.132
42 (C.52:27D-130.6), regarding the use of renewable energy, energy-
43 efficient technology, and non-renewable resources in order to
44 reduce environmental degradation and encourage long-term cost
45 reduction;

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

4 (9) a description of the significant economic, social, planning,
5 employment, environmental, fiscal, and other benefits that would
6 accrue to the State, county, or municipality from the community-
7 anchored project;

8 (10)that during the eligibility period, each worker employed to
9 perform construction work and building services work at the
10 community-anchored project shall be paid not less than the
11 prevailing wage rate for the worker's craft or trade, as determined
12 by the Commissioner of Labor and Workforce Development
13 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
14 c.379 (C.34:11-56.58 et seq.). In the event the community-anchored
15 project constitutes a lease of more than 55 percent of a single
16 facility, these requirements shall apply to construction work and
17 building services work at the entire facility. In the event the
18 community-anchored project constitutes a lease of more than 35
19 percent of a single facility, these requirements shall apply to
20 construction work at the entire facility;

21 (11)that during the eligibility period, the anchor institution **【and,**
22 **if applicable, each partner anchor institution】** shall partner with one
23 or more local community organizations that provide support and
24 services to Work First New Jersey program recipients, in order to
25 provide work activity opportunities and other appropriate services
26 to Work First New Jersey program recipients, which activities and
27 services may include, but shall not be limited to: work-study
28 programs, internships, sector-based contextualized literacy training,
29 skills-based training in growth industries in the State, and job
30 retention and advancement services;

31 (12)the extent to which the community-anchored development
32 will result in the expansion of a targeted industry in this State;

33 (13)that the timing of the award and investment of tax credits
34 under the program shall allow for the successful completion and
35 operation of the community-anchored project; and

36 (14)that the community-anchored project is viable and that the
37 anchor institution **【and, if applicable, each partner anchor**
38 **institution】** is a credible partner for completing the community-
39 anchored project and providing the agreed-upon potential returns to
40 the authority, as detailed in the tax credit agreement entered into
41 pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318).

42 c. Prior to the board considering an application submitted by an
43 anchor institution **【and, if applicable, each partner anchor**
44 **institution】**, the authority shall confirm with the Department of
45 Labor and Workforce Development, the Department of
46 Environmental Protection, and the Department of the Treasury
47 whether the anchor institution and, if applicable, each **【partner**

1 anchor institution and any partner business is in substantial good
2 standing with the respective department, or has entered into an
3 agreement with the respective department that includes a practical
4 corrective action plan. The anchor institution shall certify that any
5 contractors or subcontractors that will perform work at the
6 community-anchored project: (1) are registered as required by "The
7 Public Works Contractor Registration Act," P.L.1999, c.238
8 (C.34:11-56.48 et seq.); (2) have not been debarred by the
9 Department of Labor and Workforce Development from engaging
10 in or bidding on Public Works Contracts in the State; and (3)
11 possess a tax clearance certificate issued by the Division of
12 Taxation in the Department of the Treasury. The authority may also
13 contract with an independent third party to perform a background
14 check on an anchor institution and, if applicable, each partner
15 anchor institution and any partner business.

16 d. In order to facilitate the creation of new partnerships with
17 anchor institutions and, if applicable, partner anchor institutions,
18 the authority shall publish on the authority's website a list of names
19 and contact information for each anchor institution that has
20 submitted an application pursuant to this section.

21 e. At the time of application, an anchor institution seeking a
22 grant pursuant to the program for the development or rehabilitation
23 of a structure utilized by a cultural arts institution shall demonstrate
24 to the authority the following:

25 (1) that the proposed community-anchored project will result in
26 a capital investment in an incentive area;

27 (2) the structure and terms of the financial, corporate, and real
28 estate instruments to be utilized to successfully complete and then
29 operate the community-anchored project;

30 (3) that construction has not commenced at the site of the
31 community-anchored project prior to submitting an application or,
32 if the community-anchored project is to be undertaken in phases,
33 that the requested grant will cover only phases for which
34 construction has not yet commenced;

35 (4) the value of the grant that is necessary to finance the
36 development or rehabilitation of a structure utilized by a cultural
37 arts institution;

38 (5) the total aggregate value of the grant for the entire eligibility
39 period that is necessary in order for the anchor institution to finance
40 the establishment of the community-anchored project;

41 (6) that the community-anchored project shall comply with the
42 standards established by the authority through regulation based on
43 the green building manual prepared by the Commissioner of
44 Community Affairs pursuant to section 1 of P.L.2007, c.132
45 (C.52:27D-130.6), regarding the use of renewable energy, energy-
46 efficient technology, and non-renewable resources in order to
47 reduce environmental degradation and encourage long-term cost
48 reduction;

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

4 (8) a description of the significant economic, artistic, cultural,
5 social, planning, employment, environmental, fiscal, and other
6 benefits that would accrue to the State, county, or municipality from
7 the community-anchored project;

8 (9) that during the eligibility period, each worker employed to
9 perform construction work and building services work at the
10 community-anchored project shall be paid not less than the
11 prevailing wage rate for the worker's craft or trade, as determined
12 by the Commissioner of Labor and Workforce Development
13 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
14 c.379 (C.34:11-56.58 et seq.). In the event the community-
15 anchored project constitutes a lease of more than 55 percent of a
16 single facility, these requirements shall apply to construction work
17 and building services work at the entire facility. In the event the
18 community-anchored project constitutes a lease of more than 35
19 percent of a single facility, these requirements shall apply to
20 construction work at the entire facility;

21 (10)the extent to which the community-anchored development
22 will result in the expansion of a targeted industry in this State;

23 (11)that the timing of the award and investment of a grant under
24 the program shall allow for the successful completion and operation
25 of the community-anchored project; and

26 (12)that the community-anchored project is viable and that the
27 anchor institution is a credible partner for completing the
28 community-anchored project and providing the agreed-upon
29 potential returns to the authority, as detailed in the grant agreement.
30 (cf: P.L.2021, c.160, s.19)

31
32 4. Section 48 of P.L.2020, c.156 (C.34:1B-316) is amended to
33 read as follows:

34 48. a. Prior to March 1, 2027, an anchor institution **【and, if**
35 **applicable, each partner anchor institution】** seeking a tax credit or
36 grant pursuant to the program shall submit an application to the
37 authority in a form and manner prescribed in regulations adopted by
38 the authority pursuant to the provisions of the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The
40 authority shall accept and certify applications for tax credits and
41 grants during the award rounds established pursuant to section 49 of
42 P.L.2020, c.156 (C.34:1B-317).

43 b. The authority shall not consider an application for a
44 community-anchored project unless the anchor institution **【and, if**
45 **applicable, each partner anchor institution】** submits, with the
46 application, a letter evidencing support for the community-anchored
47 project from the governing body of the municipality in which the
48 community-anchored project is located.

1 c. The authority shall review the project costs for a proposed
2 community-anchored project and evaluate and validate the
3 underlying financial structure proposed by the anchor institution
4 **【and, if applicable, each partner anchor institution】**. The authority
5 shall conduct a State fiscal impact analysis to ensure that the overall
6 value of tax credits provided to the community-anchored project is
7 projected to result in net benefits to the State, taking into account
8 the current and deferred returns to the authority. If a project for
9 which a tax credit is awarded yields an annual return to the
10 authority in an amount equal to at least one percent of the
11 authority's investment in the project, and the applicant is
12 contractually obligated the return of the principal investment to the
13 authority at the time a facility is sold or refinanced, the authority
14 shall determine the project results in net benefits to the State.
15 Cultural arts institutions eligible for a grant under the program are
16 inherently beneficial to the State because they provide vital
17 contributions to the communities in which they are located, and
18 together built a Statewide arts community benefitting every resident
19 in the State. Accordingly, any community-anchored project that
20 involves the development or rehabilitation of a structure utilized by
21 a cultural arts institution shall not be subject to further net benefits
22 analysis by the authority beyond a determination of program
23 eligibility. The authority shall assess the cost of these reviews to
24 the applicant. An anchor institution **【and, if applicable, each**
25 **partner anchor institution】** shall pay to the authority the full amount
26 of the direct costs of an analysis concerning the anchor institution's
27 **【and, if applicable, each partner anchor institution's】** application for
28 tax credits that a third party retained by the authority performs, if
29 the authority deems such retention to be necessary.

30 d. If at any time during the eligibility period the authority
31 determines that an anchor institution **【or a partner anchor**
32 **institution】** made a material misrepresentation on the program
33 application, the anchor institution **【or partner anchor institution】**
34 shall forfeit or repay to the authority the value of tax credits or
35 grant associated with that application.

36 (cf: P.L.2020, c.156, s.48)

37

38 5. Section 49 of P.L.2020, c.156 (C.34:1B-317) is amended to
39 read as follows:

40 49. a. The authority shall award tax credits and grants under the
41 program through a competitive application process consisting of up
42 to two award rounds each year. The authority shall provide notice
43 to the public of the opening and closing dates for submission of
44 program applications on the authority's Internet website.

45 b. (1) The authority shall review applications for tax credits
46 and grants submitted to the authority by the deadline date of the
47 award round and shall evaluate each application as if it were

1 received on the deadline date, without providing any preference for
2 early submissions. To determine priority for an award of a tax
3 credit or grant, all applications for community-anchored projects
4 that satisfy the criteria set forth in sections 47 and 48 of P.L.2020,
5 c.156 (C.34:1B-315 and C.34:1B-316) in a given award round shall
6 be ranked on the basis of a scoring system developed by the
7 authority through regulations adopted pursuant to the provisions of
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.). Prior to the commencement of an award round, the authority
10 shall determine the minimum score for the award round that **[an**
11 **anchor institution or, if applicable, each partner anchor institution]**
12 each applicant is required to attain to be eligible for a tax credit.

13 (2) The authority may establish different criteria for community-
14 anchored projects that are located in a New Jersey State opportunity
15 zone and community-anchored projects that are primarily designed
16 to result in the economic expansion of a targeted industry in this
17 State.

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

22 (1) the amount of tax credit requested by the anchor institution
23 **[and, if applicable, each partner anchor institution]** compared to the
24 overall investments required for the completion of the community-
25 anchored project, along with the amount of the potential return on
26 the authority's investment of tax credits to the State by the end of
27 the commitment period, the amount of the tax credit, if any, that is
28 unlikely to be realized as a return on investment to the State, and
29 the proposed terms and structure for the authority's investment in
30 the project, including applicable current and deferred returns;

31 (2) the financial benefit of the community-anchored project to
32 the community in which the community-anchored project will be
33 located;

34 (3) apprenticeships or workforce programs to be offered because
35 of the community-anchored project;

36 (4) the ability of the community-anchored project to absorb and
37 adapt to changing environmental conditions and deliver its
38 objectives;

39 (5) how the community-anchored project will advance State,
40 regional, and local development and planning strategies;

41 (6) the relationship of the community-anchored project to a
42 comprehensive local development strategy, including its relation to
43 other development and redevelopment projects in the municipality;

44 (7) the degree to which the community-anchored project
45 enhances and promotes job creation and economic development;

46 (8) the extent of economic and related social distress in the
47 municipality and the immediate area surrounding the community-
48 anchored project;

1 (9) the extent to which the community-anchored project
2 provides for the development of housing for individuals with
3 special needs;

4 (10)the extent to which the community-anchored project
5 constitutes the expansion of the anchor institution **【and, if
6 applicable, each partner anchor institution】** to different areas of the
7 State;

8 (11)the extent to which the community-anchored project
9 provides for infrastructure, parking, retail, green space, or other
10 public amenities creating a mixed-use community-anchored project;

11 (12)the inclusion of a qualified business accelerator or incubator
12 facility as a part of the community-anchored project;

13 (13)the length of the commitment period for the community-
14 anchored project;

15 (14)the quality and number of new full-time jobs that will be
16 created by the anchor institution**【, partner anchor institution】** or a
17 partner business at the community-anchored project;

18 (15)the quality and number of existing full-time jobs that will be
19 retained by the anchor institution**【, partner anchor institution,】** or a
20 partner business in the State as a result of completing the
21 community-anchored project, with the criteria specifying, in scoring
22 the application, that the retention of an existing full-time job shall
23 be given not more than one-third the weight of a new full-time job
24 of a similar quality; and

25 (16)if the anchor institution has a board of directors, the extent
26 to which that board of directors is diverse and representative of the
27 community in which the community-anchored project is located.

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

34 e. Prior to the award of a tax credit **【to an anchor institution or,
35 if applicable, each partner anchor institution, to be converted into
36 an authority investment in a community-anchored project】**, the
37 authority shall confirm with the Department of Labor and
38 Workforce Development, the Department of Environmental
39 Protection, and the Department of the Treasury that the anchor
40 institution **【and, if applicable, each partner anchor institution】**,
41 along with any partner business identified in a program application,
42 is in substantial good standing with the respective department, or
43 has entered into an agreement with the respective department that
44 includes a practical corrective action plan for the anchor institution
45 and, if applicable, each **【partner anchor institution and any】** partner
46 business, and the anchor institution shall confirm that any
47 contractors and subcontractors performing work at the community-

1 anchored project: (1) are registered as required by "The Public
2 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
3 56.48 et seq.); (2) have not been debarred by the Department of
4 Labor and Workforce Development from engaging in or bidding on
5 Public Works Contracts in the State; and (3) possess a tax clearance
6 certificate issued by the Division of Taxation in the Department of
7 the Treasury. Provided that all parties are in compliance with this
8 subsection, the authority shall allocate tax credits to community-
9 anchored projects according to the community-anchored project's
10 score and until either the available tax credits are exhausted or all
11 community-anchored projects obtaining the minimum score receive
12 a tax credit, whichever occurs first. If insufficient funding exists to
13 fully fund all eligible community-anchored projects, a community-
14 anchored project may be offered partial funding.

15 f. Applications that do not receive the minimum score
16 established by the authority for that award round shall not receive
17 further consideration for a tax credit by the authority in that award
18 round; however, an anchor institution **[**or partner anchor
19 institution**]** may revise or complete a new application to be
20 submitted in a subsequent award round.

21 g. If an anchor institution **[**or partner anchor institution**]**
22 declines a tax credit offered by the authority, the authority shall
23 offer the tax credit to the applicant with the application having the
24 next highest score, and having obtained at least the minimum score
25 in that award round.

26 h. The scoring system developed by the authority pursuant to
27 subsection b. of this section shall assess applications for grants
28 based on criteria including, but not limited to, the following:

29 (1) the ability of the community-anchored project to absorb and
30 adapt to changing environmental conditions and deliver its
31 objectives;

32 (2) how the community-anchored project will advance State,
33 regional, and local goals regarding the development of arts and
34 cultural facilities in underserved municipalities;

35 (3) the relationship of the community-anchored project to a
36 comprehensive local development strategy, including its relation to
37 other development and redevelopment projects in the municipality;

38 (4) the degree to which the community-anchored project
39 enhances and promotes job creation and economic development;

40 (5) the extent of economic and related social distress in the
41 municipality and the immediate area surrounding the community-
42 anchored project;

43 (6) the extent to which the community-anchored project
44 constitutes the expansion of the anchor institution to different areas
45 of the State;

46 (7) the inclusion of a qualified business accelerator or incubator
47 facility as a part of the community-anchored project;

1 (8) the length of the commitment period for the community-
2 anchored project;

3 (9) the quality and number of new full-time jobs that will be
4 created by the anchor institution or a partner business at the
5 community-anchored project; and

6 (10) if the anchor institution has a board of directors, the extent
7 to which that board of directors is diverse and representative of the
8 community in which the community-anchored project is located.

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

10

11 6. Section 50 of P.L.2020, c.156 (C.34:1B-318) is amended to
12 read as follows:

13 50. a. Following approval and selection of an application
14 pursuant to sections 48 and 49 of P.L.2020, c.156 (C.34:1B-316 and
15 C.34:1B-317), the authority shall enter into a tax credit agreement
16 or a grant agreement with the anchor institution **【and, if applicable,**
17 **each partner anchor institution】**. The chief executive officer of the
18 authority shall negotiate the terms and conditions of the **【tax credit】**
19 agreement on behalf of the State.

20 b. (1) A tax credit agreement shall specify the amount of the
21 tax credit that the authority shall award to the anchor institution
22 **【and, if applicable, each partner anchor institution】** for conversion
23 into an authority investment and specify the duration of the
24 eligibility period, which shall not exceed 10 years. The tax credit
25 agreement shall provide an estimated date of completion for the
26 community-anchored project and include a requirement for periodic
27 progress reports through completion, including the submittal of
28 executed financing commitments and documents or agreements that
29 evidence site control.

30 (2) If, as a result of a default under the tax credit agreement, the
31 authority rescinds a tax credit in the same calendar year in which
32 the authority approved the tax credit, then the authority may assign
33 the tax credit to another applicant that attained the minimum score
34 determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-
35 317).

36 c. The terms of the tax credit agreement shall:

37 (1) provide for a verification of project financing at the time the
38 anchor institution**【, each partner anchor institution,】** and any
39 partner business provides executed financing commitments to the
40 authority and a verification of the anchor institution's projected cash
41 flow **【and each partner anchor institution's cash flow】** at the time of
42 certification that the project is completed;

43 (2) specify the length of the commitment period for the
44 community-anchored project and the terms by which the anchor
45 institution **【and, if applicable, each partner anchor institution】** shall
46 provide to the authority current or deferred returns on investment

- 1 generated by the community-anchored project and commit to a
2 structure for returns on investment;
- 3 (3) allow the anchor institution **【and, if applicable, each partner**
4 **anchor institution】** to distribute returns on investment to the
5 authority for the tax credits in the amount specified in the tax credit
6 agreement at any time within the commitment period, but require
7 such distribution to occur if the community-anchored project is sold
8 before the end of the commitment period;
- 9 (4) specify amounts of returns to be retained by the anchor
10 institution **【and, if applicable, each partner anchor institution】** for
11 capital reserves, programming, or other purposes;
- 12 (5) identify the value of any monetary or financial benefit
13 offered or provided by the anchor institution **【and, if applicable,**
14 **each partner anchor institution】** to any partner business that works
15 with the anchor institution **【and, if applicable, each partner anchor**
16 **institution to complete and operate the community-anchored**
17 **project】**;
- 18 (6) identify any benefits created by the anchor institution **【and,**
19 **if applicable, each partner anchor institution】** for a partner business
20 through equity investment in or debt-financing of a community-
21 anchored project and specify the formula by which such benefits are
22 passed through to a partner business;
- 23 (7) specify that the authority or the State may purchase tax
24 credits offered for sale by an anchor institution **【and, if applicable,**
25 **each partner anchor institution】** for 90 percent of the stated value of
26 the tax credit before considering any further discounting to present
27 value which shall be permitted;
- 28 (8) at a minimum, require an anchor institution **【and, if**
29 **applicable, each partner anchor institution】** to provide oversight of
30 the community-anchored project through ongoing reporting by a
31 partner business to the anchor institution **【and, if applicable, each**
32 **partner anchor institution】**, and subsequent ongoing reporting by
33 the anchor institution **【and, if applicable, each partner anchor**
34 **institution】** to the authority;
- 35 (9) specify other measures through which the authority shall
36 ensure oversight of outstanding tax credit investments, and, in the
37 event that an anchor institution **【or partner anchor institution】** fails
38 to meet its obligations under the tax credit agreement or any
39 program requirement, establish the right of the authority to assume
40 direct oversight of any or all projects for which the anchor
41 institution **【or partner anchor institution】** has entered into
42 investment agreements and require the anchor institution **【or**
43 **partner anchor institution】** to pursue any remedies it may have
44 against a partner business; and
- 45 (10) at a minimum, require that the anchor institution and, if
46 applicable, each **【partner anchor institution, and any】** partner

1 **【businesses,】** business adopt specific nondiscrimination policies for
2 the operation of a community-anchored project.

3 d. The tax credit agreement shall include a requirement that the
4 chief executive officer of the authority receive annual reports from
5 the anchor institution and, if applicable, each **【partner institution**
6 **and any】** partner business. As part of the authority's review of the
7 annual reports required from each anchor institution and, if
8 applicable, each partner **【institution】** business, the authority shall
9 confirm with the Department of Environmental Protection, the
10 Department of Labor and Workforce Development, and the
11 Department of the Treasury that: the anchor institution and, if
12 applicable, each **【partner institution and any】** partner business is in
13 substantial good standing with the respective department, or has
14 entered into an agreement with such department that includes a
15 practical corrective action plan for the anchor institution and, if
16 applicable, each **【partner anchor institution and any】** partner
17 business, and the anchor institution shall confirm that any
18 contractors and subcontractors performing work at the community-
19 anchored project: (1) are registered as required by "The Public
20 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
21 56.48 et seq.); (2) have not been debarred by the Department of
22 Labor and Workforce Development from engaging in or bidding on
23 Public Works Contracts in the State; and (3) possess a tax clearance
24 certificate issued by the Division of Taxation in the Department of
25 the Treasury. The tax credit agreement shall include a provision that
26 the anchor institution **【and, if applicable, each partner institution】**
27 shall forfeit the tax credit in any year in which an uncured default
28 exists under the tax credit agreement or the anchor institution **【and,**
29 **if applicable, each partner institution】** is neither in substantial good
30 standing with the Department of Environmental Protection, the
31 Department of Labor and Workforce Development, or the
32 Department of the Treasury nor has entered into a practical
33 corrective action plan. The tax credit agreement shall, however,
34 allow the authority to extend, in individual cases, the deadline for
35 any annual reporting requirement.

36 e. (1) A grant agreement shall specify the amount of the grant
37 that the authority shall award to the anchor institution. The grant
38 agreement shall provide an estimated date of completion for the
39 community-anchored project and include a requirement for periodic
40 progress reports through completion, including the submittal of
41 executed financing commitments and documents or agreements that
42 evidence site control.

43 (2) If, as a result of a default under the grant agreement, the
44 authority rescinds a grant in the same calendar year in which the
45 authority approved the grant, then the authority may assign the
46 grant to another applicant that attained the minimum score

1 determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-
2 317).

3 f. A grant agreement shall include a requirement that the chief
4 executive officer of the authority receive annual reports from the
5 anchor institution and, if applicable, each partner business. As part
6 of the authority's review of the annual reports required from each
7 anchor institution and, if applicable, each partner business, the
8 authority shall confirm with the Department of Environmental
9 Protection, the Department of Labor and Workforce Development,
10 and the Department of the Treasury that: the anchor institution and,
11 if applicable, each partner business is in substantial good standing
12 with the respective department, or has entered into an agreement
13 with such department that includes a practical corrective action plan
14 for the anchor institution and, if applicable, each partner business,
15 and the anchor institution shall confirm that any contractors and
16 subcontractors performing work at the community-anchored
17 project: (1) are registered as required by "The Public Works
18 Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et
19 seq.); and (2) have not been debarred by the Department of Labor
20 and Workforce Development from engaging in or bidding on Public
21 Works Contracts in the State. The grant agreement shall include a
22 provision that the anchor institution shall forfeit the grant in any
23 year in which an uncured default exists under the grant agreement
24 or the anchor institution is neither in substantial good standing with
25 the Department of Environmental Protection, the Department of
26 Labor and Workforce Development, or the Department of the
27 Treasury nor has entered into a practical corrective action plan. The
28 grant agreement shall, however, allow the authority to extend, in
29 individual cases, the deadline for any annual reporting requirement.

30 g. An anchor institution [and, if applicable, each partner
31 institution] shall, as required at the discretion of the authority,
32 submit to the authority satisfactory evidence of actual project costs,
33 as certified by a certified public accountant, evidence of a
34 temporary certificate of occupancy, or other event evidencing
35 project completion. The anchor institution [and, if applicable, each
36 partner institution], or an authorized agent of the anchor institution
37 [or partner institution], shall certify under the penalty of perjury
38 that the information provided pursuant to this subsection is true.

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

40

41 7. Section 51 of P.L.2020, c.156 (C.34:1B-319) is amended to
42 read as follows:

43 51. a. Up to the limits established in subsection b. of this
44 section and in accordance with a tax credit agreement, beginning
45 upon the receipt of occupancy permits for any portion of the
46 community-anchored project, or upon any other event evidencing
47 project completion as set forth in the tax credit agreement, an

1 anchor institution **【and, if applicable, each partner institution】** of an
2 approved community-anchored project shall be awarded a base tax
3 credit of \$5,000,000 for conversion into an authority investment in
4 the community-anchored project.

5 b. An anchor institution **【and, if applicable, each partner**
6 **institution】** may be allowed a tax credit in excess of the base
7 amount, if approved by the authority, provided, however, the total
8 tax credit allowed per community-anchored project shall not exceed
9 \$75,000,000 and the total investment of all State resources not
10 including rent payments in a community-anchored project shall not
11 exceed 40 percent of the total cost of the project.

12 (cf: P.L.2020, c.156, s.51)

13

14 8. Section 52 of P.L.2020, c.156 (C.34:1B-320) is amended to
15 read as follows:

16 52. a. An anchor institution **【and, if applicable, each partner**
17 **institution】** that is awarded a tax credit under sections 43 through
18 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) shall,
19 commencing in the year in which the tax credit is awarded, and
20 each year thereafter for the remainder of the eligibility period,
21 submit a report indicating whether the anchor institution **【and, if**
22 **applicable, each partner institution】** is aware of any condition,
23 event, or act that would cause the anchor institution **【or partner**
24 **institution】** not to be in compliance with the tax credit agreement or
25 the provisions of sections 43 through 53 of P.L.2020, c.156
26 (C.34:1B-311 through C.34:1B-321) and any additional reporting
27 requirements contained in the tax credit agreement or tax credit
28 certificate. The anchor institution **【and, if applicable, each partner**
29 **institution,】** or an authorized agent of the anchor institution **【or**
30 **partner institution,】** shall certify under the penalty of perjury that
31 the information provided pursuant to this subsection is true.

32 b. (1) Upon receipt and review of each report submitted during
33 the eligibility period, the authority shall provide to the anchor
34 institution **【and, if applicable, each partner institution】** and the
35 Director of the Division of Taxation in the Department of the
36 Treasury a certificate of compliance indicating the amount of tax
37 credits awarded to the anchor institution **【and, if applicable, each**
38 **partner institution】** for conversion into an authority investment in
39 the community-anchored project, that the anchor institution **【and, if**
40 **applicable, each partner institution】** may:

41 (a) offer for sale through the provision of a tax credit transfer
42 certificate pursuant to section 53 of P.L.2020, c.156 (C.34:1B-321);
43 or

44 (b) use as collateral or to secure any financial instrument
45 approved by the authority to provide financing for the community-
46 anchored project, if that use is in accordance with rules and

1 regulations adopted by the authority, pursuant to the provisions of
2 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), to govern the use of program tax credits.

4 (2) Upon receipt by the director of the certificate of compliance,
5 the director shall coordinate with the anchor institution **【and, if
6 applicable, each partner institution】** and the authority to provide the
7 anchor institution **【and, if applicable, each partner institution】** with
8 a tax credit transfer certificate, as described in section 53 of
9 P.L.2020, c.156 (C.34:1B-321), or a tax credit certificate for the
10 value awarded by the authority for that year that the anchor
11 institution **【and, if applicable, each partner institution】** may use as
12 provided in paragraph (1) of this subsection b. and in accordance
13 with the rules adopted pursuant to subparagraph (b) of paragraph
14 (1) of this subsection.

15 (cf: P.L.2020, c.156, s.52)

16

17 9. Section 53 of P.L.2020, c.156 (C.34:1B-321) is amended to
18 read as follows:

19 53. a. An anchor institution **【and, if applicable, each partner
20 institution】** may apply to the director and the chief executive officer
21 of the authority for a tax credit transfer certificate, covering one or
22 more years. The tax credit transfer certificate, upon receipt thereof
23 by the anchor institution **【or partner institution】** from the director
24 and the chief executive officer of the authority, may be sold or
25 assigned, in full or in part, in the privilege period during which the
26 anchor institution **【or partner institution】** receives the tax credit
27 transfer certificate from the director, to another person, who may
28 apply the credit against a tax liability pursuant to section 5 of
29 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
30 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
31 (C.17:32-15), **【or】** N.J.S.17B:23-5, or the "New Jersey Gross
32 Income Tax Act," N.J.S.54A:1-1 et seq.

33 b. The anchor institution **【or partner institution】** shall not sell
34 or assign, including a collateral assignment, a tax credit transfer
35 certificate allowed under this section for consideration received by
36 the anchor institution **【or partner institution】** of less than 85 percent
37 of the transferred credit amount before considering any further
38 discounting to present value which shall be permitted. The tax
39 credit transfer certificate issued to an anchor institution **【or partner
40 institution】** by the director shall be subject to any limitations and
41 conditions imposed on the application of State tax credits pursuant
42 to sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
43 C.34:1B-321) and any other terms and conditions that the director
44 may prescribe.

45 c. A purchaser or assignee of a tax credit transfer certificate
46 pursuant to this section may make any subsequent transfers,

1 assignments, or sales of a tax credit transfer certificate for an
2 amount to be negotiated with a subsequent purchaser or assignee.

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

- 6 (1) the name of the transferor;
- 7 (2) the name of the transferee;
- 8 (3) the value of the tax credit transfer certificate;
- 9 (4) the State tax against which the transferee may apply the tax
10 credit; and
- 11 (5) the consideration received by the transferor.

12 (cf: P.L.2020, c.156, s.53)

13

14 10. (New section) Notwithstanding the provisions of the
15 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
16 seq.) to the contrary, the chief executive officer of the authority
17 shall, in consultation with the agency, adopt, immediately, upon
18 filing with the Office of Administrative Law, such rules and
19 regulations as the chief executive officer deems necessary to
20 implement the provisions of sections 43 through 53 of P.L.2020,
21 c.156 (C.34:1B-311 through C.34:1B-321), as amended by P.L. ,
22 c. (C.) (pending before the Legislature as this bill), which
23 rules and regulations shall be effective for a period not to exceed
24 365 days after the date of the filing. Before the expiration of the
25 rules and regulations, the chief executive officer shall amend, adopt,
26 or readopt the rules and regulations in accordance with the
27 requirements of the “Administrative Procedure Act,” P.L.1968,
28 c.410 (C.52:14B-1 et seq.).

29

30 11. This act shall take effect immediately.

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STATEMENT

34

35 This bill modifies certain provisions of State law concerning the
36 New Jersey Community-Anchored Development Program
37 (program). Under the program, the Economic Development
38 Authority (EDA) awards State tax credits to anchor institutions for
39 investment in community-anchored projects. To be eligible for an
40 investment under current law, a community-anchored project is
41 required to result in a capital investment of at least \$10 million.
42 The bill lowers the amount of the minimum-required investment to
43 \$2 million.

44 Current law allows a taxpayer to apply a tax credit or tax credit
45 transfer certificate awarded under the program to the taxpayer’s
46 corporation business tax liability or, in the case of a taxpayer that is
47 an insurance company, to the taxpayer’s insurance premiums tax
48 liability. The bill allows a taxpayer to, alternatively, apply a tax

1 credit or tax credit transfer certificate awarded under the program to
2 the taxpayer's gross income tax liability.

3 The bill provides that for projects involving the development or
4 rehabilitation of a structure utilized by a cultural arts institution, the
5 EDA's contribution to the projects is to be in the form of a small,
6 medium, and large grants, which are to be funded by the proceeds
7 of an auction. The bill defines "cultural arts institution" as an
8 existing or proposed facility within this State that engages in the
9 cultural, educational, or artistic enrichment of the people of this
10 State through the operation of a venue that has a primary purpose of
11 hosting live performances, a museum, or any related educational
12 facilities.

13 For a project with a total cost of less than \$10 million, the bill
14 caps the amount of the grant at \$10 million. For a project with a
15 total cost greater than \$10 million but equal to or less than \$90
16 million, the bill caps the amount of the grant at \$40 million.
17 Finally, for a project with a total cost that exceeds \$90 million, the
18 bill caps the amount of the grant at \$75 million. To be eligible for a
19 grant, an applicant is required to satisfy certain requirements
20 provided by the bill.

21 The bill requires the EDA to award tax credits and grants under
22 the program through a competitive application process consisting of
23 up to two award rounds each year. The bill requires the EDA to
24 develop a scoring system to assess applications, and requires certain
25 criteria to be included in the scoring system.

26 In support of the grant program, the bill requires the authority to
27 auction: \$150 million in tax credits in the fiscal year ending June
28 30, 2024; \$150 million in tax credits in the fiscal year ending June
29 30, 2025; and \$100 million in tax credits in the fiscal year ending
30 June 30, 2026. The bill requires the \$400 million in tax credits
31 auctioned over this period to be derived from the tax credits
32 authorized for the New Jersey Community-Anchored Development
33 Program that were unused in the fiscal years ending June 30, 2021,
34 June 30, 2022, and June 30, 2023. The bill creates a fund to be
35 known as the "New Jersey Cultural Institution Fund" and directs the
36 authority to credit the fund with the proceeds of the auction.

37 The bill requires anchor institutions that are awarded a grant
38 under the program to enter into a grant agreement with the EDA.
39 The bill provides requirements for grant agreements entered into
40 under the program.

41 The bill modifies certain terms and definitions under the New
42 Jersey Community-Anchored Development Act. First, the bill
43 removes the definitions for "comprehensive health care system,"
44 "major cultural institution," "New Jersey State opportunity zone,"
45 and "partner anchor institution," and removes other references to
46 these terms from the bill. The bill modifies the definitions for
47 "anchor institution" and "community-anchored project." The bill

S4011 RUIZ

26

1 creates definitions for “grant agreement,” “cultural arts institution,”
2 and “incentive area.”

3 The bill directs the chief executive officer of the EDA, in
4 consultation with the agency, to adopt, immediately, upon filing
5 with the Office of Administrative Law, such rules and regulations
6 as the chief executive officer deems necessary to implement the
7 provisions of the “New Jersey Community-Anchored Development
8 Act,” which rules and regulations are to be effective for a period not
9 to exceed 365 days after the date of the filing. The bill requires the
10 chief executive officer, before the expiration of the rules and
11 regulations, to amend, adopt, or readopt the rules and regulations in
12 accordance with the requirements of the “Administrative Procedure
13 Act.”