[Second Reprint]

SENATE, No. 4011



STATE OF NEW JERSEY

220th LEGISLATURE



INTRODUCED JUNE 26, 2023

Sponsored by:

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SYNOPSIS

Modifies New Jersey Community-Anchored Development Program.

CURRENT VERSION OF TEXT

As amended on December 11, 2023 by the Senate pursuant to the Governor's recommendations.



An Act concerning the **2[**New Jersey Community-Anchored Development Program**]** development and rehabilitation of cultural arts institution facilities**2**, and amending **2**and supplementing**2** P.L.2020, c.156.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

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

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by an anchor institution **1[**partner anchor institution,**]1** or a partner business. 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 taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by the above referenced federal statutes.

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

"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).

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

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

**[**"Comprehensive health care system" means an entity in this State with the primary purpose of offering comprehensive health care services.**]**

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

**1**"Cultural arts institution" means an entity within this State that engages in the cultural, educational, or artistic enrichment of the people of this State.**1**

"Cultural arts institution **1**facility**1** " means an existing or proposed facility within this State **1[**that engages in the cultural, educational, or artistic enrichment of the people of this State through the operation of a venue**]** , operated and maintained by a cultural arts institution,**1** that has a primary purpose of hosting live performances, a museum, or any related educational facilities.

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

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

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

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

**1[**"Grant agreement" means an agreement entered into between the authority and a cultural arts institution.**]1**

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

"Incentive area" means any location eligible 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).

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

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

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

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

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

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

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

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

"Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) between the authority and an anchor institution **[**or, if applicable, a partner anchor 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.2021, c.160, s.18)**]2**

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

46. a. The New Jersey Community-Anchored Development Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program **[**to invest in and incentivize the expansion of targeted industries in the State and the continued development of certain areas of the State through the provision of tax credits to an anchor institution and, if applicable, partner anchor institutions. The board shall certify a qualified anchor institution and, if applicable, qualified partner anchor institutions based on the requirements of sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), and may approve the award of a tax credit to an anchor institution pursuant to section 49 of P.L.2020, c.156 (C.34:1B-317). The value of all tax credits approved by the authority to an anchor institution and, if applicable, partner anchor 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)**]**. **1**Any tax credit awarded under the program may be utilized by the applicant 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).**1**

b. (1) (a) The authority shall administer the program to **[**invest in, and**]** incentivize the establishment of **[**,**]** community-anchored projects by an anchor institution **[**and, if applicable, partner anchor institutions,**]** independently or in collaboration with one or more partner businesses or governmental entities. **[**The authority's investment in community-anchored projects shall be in the form of the award of tax credits to an anchor institution and, if applicable, partner anchor institutions.**]** For a community-anchored project involving the development or rehabilitation of a **1[**structure utilized by a**]1** cultural arts institution **1**facility**1** , the authority’s contribution to the project shall be in the form of **1[**small, medium, and large grants. funded by the proceeds of an auction pursuant to subsection e. of this section. For a project with a total cost of less than $10,000,000, the authority’s contribution to the project shall be in the form of a small grant, the amount of which shall not exceed $10,000,000. For a project with a total cost greater than $10,000,000 but equal to or less than $90,000,000, the authority’s contribution to the project shall be in the form of a medium grant, the amount of which shall not exceed $40,000,000. For a project with a total cost that exceeds $90,000,000, the authority’s contribution to the project shall be in the form of a large grant, the amount of which shall not exceed $75,000,000**]** a tax credit award in an amount equal to 100 percent of eligible project costs or $75 million, whichever is less**1** .

(b) To be eligible for a **1[**grant**]** tax credit award**1** pursuant to this paragraph, an applicant shall demonstrate to the authority the following: the applicant’s need for funding to complete the project; and all other sources of funding obtained by the applicant for the completion of the project.

(2) (a) The authority may award a tax credit to an anchor institution **[**and, if applicable, one or more partner anchor institutions under the program**]**, which the anchor institution **[**and, if applicable, each partner anchor institution**]** shall **[**convert into**]** consider an investment by the authority in a community-anchored project, subject to the condition that the anchor institution **[**and, if applicable, each partner anchor institution either**]** sell and transfer the tax credits, or adopt a plan to use the tax credits in order to finance the completion of the community-anchored project, which condition shall be included in the tax credit agreement entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318). An anchor institution **[**and, if applicable, each partner anchor 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 to provide a loan or other financial support for the community-anchored project that will permit the anchor institution**[**, and, if applicable, a partner business, a partner anchor institution, or both**]** to develop the community-anchored project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the community-anchored project. A tax credit agreement, entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) shall detail the terms by which an anchor institution **[**and, if applicable, each partner anchor institution**]** will convert the award of tax credits into an investment by the authority into the community-anchored project, subject to potential returns on investment to the authority based on an agreed-upon formula for the distribution of returns, including upon the sale of a community-anchored project or at the end of the commitment period. For community-anchored projects **[**financed solely by governmental and nonprofit entity investments**]**, the authority shall negotiate an agreed upon formula which shall include, but not be limited to, the potential recapture of the value of the tax credits awarded based upon the financial success of the project. **[**For community-anchored projects that are not financed solely by governmental and nonprofit entity investments, the authority shall negotiate an agreed upon formula which shall include, but not be limited to, the potential recapture of the value of the tax credits awarded and additional returns on investment.**]** **1**For community-anchored projects the tax credit agreement shall include a provision for the recapture of the value of the tax credits if the project is not completed or the project fails to meet the requirements of the tax credit agreement or the program.**1** The tax credit agreement shall, however, specify that the authority's interest in the community-anchored project shall be subordinate to the investments made by an anchor institution **[**and, if applicable, each partner anchor institution**]** and partner businesses. References to investments and returns in sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) shall also include loans and other financial support and their corresponding returns.

(b) Consistent with an applicable tax credit agreement, a tax credit awarded to an anchor institution **[**and, if applicable, each partner anchor institution for conversion into an authority investment, as provided pursuant to subparagraph (a) of this paragraph**]**, 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**]** **1**or**1** pursuant to N.J.S.17B:23-5 **1[**, or pursuant to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq**]1**.

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

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

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

e. An incentive award to a **1**cultural arts institution for a**1** community-anchored project involving the development or rehabilitation of **1[**structure utilized by**]1** a cultural arts institution **1**facility**1** shall be in the form of a **1[**grant**]** tax credit**1** not to exceed $75,000,000 per project. In support of the **1[**grant**]** tax credit**1** program, the authority **1[**shall auction**]** may award**1** : **1[**$150,000,000**]** $100,000,000**1** in tax credits in the fiscal year ending June 30, 2024; **1[**$150,000,000**]** $100,000,000**1** in tax credits in the fiscal year ending June 30, 2025; **1[**and $100,000,000**]** $50,000,000**1** in tax credits in the fiscal year ending June 30, 2026 **1**; and $50,000,000 in tax credits in the fiscal year ending June 30, 2027**1**. The **1[**$400,000,000**]** $300,000,000**1** in tax credits **1[**auctioned**]** awarded**1** over this period shall be derived from the tax credits authorized for the New Jersey Community-Anchored Development Program that were unused in the fiscal years ending June 30, 2021, June 30, 2022, and June 30, 2023. **1**The authority may, in its discretion, utilize tax credits for this program up to a total of $200,000,000 in a single year, with the remainder of the credits distributed evenly for the remaining years of the program.**1**

**1[**The authority shall determine the form and manner in which potential purchasers may bid for tax credits auctioned pursuant to this subsection. To be awarded a tax credit auctioned pursuant to this subsection, a potential purchaser shall:

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

(2) provide any other information that the chief executive officer of the authority determines is necessary.**]1**

A tax credit **1[**auctioned**]** awarded**1** pursuant to this subsection 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), **1**or**1** pursuant to N.J.S.17B:23-5 **1[**, or pursuant to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq**]1**.

**1[**f. The authority shall establish and maintain a dedicated fund to be known as the "New Jersey Cultural Institution Fund.” The authority shall use the money in the fund to carry out the purposes of the grant portion of the New Jersey Community-Anchored Development Program. The authority shall credit the fund with the proceeds of the auction authorized pursuant to subsection e. of this section.**]1**

(cf: P.L.2020, c.156, s.46)**]2**

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

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

b. At the time of application, an anchor institution **[**and, if applicable, each partner anchor institution**]** seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed community-anchored project will result in a capital investment in **[**a New Jersey State opportunity zone or, if the project is primarily designed to result in the economic expansion of a targeted industry in this State, in an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a municipality with a Municipal Revitalization Index distress score of at least 50**]** an incentive area;

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete and then operate the community-anchored project, including, but not limited to, the proposed economic and business relationship between the anchor institution and, if applicable, each **[**partner anchor institution and any**]** partner business;

(3) **[**that the anchor institution and, if applicable, each partner anchor institution, along with any partner business and each partner institution participating in a community-anchored project,**]** construction has not commenced **[**any construction**]** at the site of the community-anchored project prior to submitting an application, unless the authority determines that the community-anchored project would not be completed otherwise or, in the event the community-anchored project is to be undertaken in phases, the requested tax credit covers only phases for which construction has not yet commenced;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the anchor institution **[**and, if applicable, each partner anchor institution**]** to finance the establishment of the community-anchored project;

(5) the total aggregate value of the tax credit for the entire eligibility period that is necessary in order for the anchor institution **[**and, if applicable, each partner anchor institution**]** to finance the establishment of the community-anchored project;

(6) that the award of tax credits under the program will be **[**converted into**]** considered an investment by the authority into the community-anchored project, and demonstrate to the authority the anticipated current and deferred returns, as applicable, on that investment;

(7) that the community-anchored 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;

(8) that the community-anchored 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);

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

(10) that during the eligibility period, each worker employed to perform construction work and building services work at the community-anchored 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 community-anchored 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 community-anchored project constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(11) that during the eligibility period, the anchor institution **[**and, if applicable, each partner anchor 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;

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

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

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

c. Prior to the board considering an application submitted by an anchor institution **[**and, if applicable, each partner anchor 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 anchor institution and, if applicable, each **[**partner anchor institution and any**]** partner business 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 anchor institution shall certify that any contractors or subcontractors that will perform work at the community-anchored 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 an anchor institution and, if applicable, each **[**partner anchor institution and any**]** partner business.

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

e. At the time of application, an anchor institution seeking a **1[**grant**]** tax credit award**1** pursuant to the program for the development or rehabilitation of a **1[**structure utilized by a**]1** cultural arts institution **1**facility**1** shall demonstrate to the authority the following:

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

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

(3) that construction has not commenced at the site of the community-anchored project prior to submitting an application or, if the community-anchored project is to be undertaken in phases, that the requested **1[**grant**]** tax credit award**1** will cover only phases for which construction has not yet commenced;

(4) the value of the **1[**grant**]** tax credit award**1** that is necessary to finance the development or rehabilitation of a **1[**structure utilized by a**]1** cultural arts institution **1**facility**1** ;

(5) the total aggregate value of the **1[**grant**]** tax credit award**1** for the entire eligibility period that is necessary in order for the anchor institution to finance the establishment of the community-anchored project;

(6) that the community-anchored 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 community-anchored 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, artistic, cultural, social, planning, employment, environmental, fiscal, and other benefits that would accrue to the State, county, or municipality from the community-anchored project;

(9) that during the eligibility period, each worker employed to perform construction work and building services work at the community-anchored 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 community-anchored 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 community-anchored 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) the extent to which the community-anchored development will result in the expansion of a targeted industry in this State; **1**and**1**

(11) that the timing of the **1[**award and investment of a grant**]** tax credit award to a cultural arts institution**1** under the program shall allow for the successful completion and operation of the community-anchored project **1[**; and

(12) that the community-anchored project is viable and that the anchor institution is a credible partner for completing the community-anchored project and providing the agreed-upon potential returns to the authority, as detailed in the **1[**grant**]1** agreement**]1**.

(cf: P.L.2021, c.160, s.19)**]2**

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

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

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

c. The authority shall review the project costs for a proposed community-anchored project and evaluate and validate the underlying financial structure proposed by the anchor institution **[**and, if applicable, each partner anchor institution**]**. The authority shall conduct a State fiscal impact analysis to ensure that the overall value of tax credits provided to the community-anchored project is projected to result in net benefits to the State, taking into account the current and deferred returns to the authority. If a project for which a tax credit is awarded yields an annual return to the authority in an amount equal to at least one percent of the authority’s investment in the project, and the applicant is contractually obligated the return of the principal investment to the authority at the time a facility is sold or refinanced, the authority shall determine the project results in net benefits to the State. **1[**Cultural arts institutions eligible for a grant under the program**]** Community-anchored projects involving the development or rehabilitation of a cultural arts institution facility**1** are inherently beneficial to the State because they provide vital contributions to the communities in which they are located, and together **1[**built a Statewide**]** the**1** arts community **1[**benefitting every resident in**]** provides incalculable economic and cultural benefits to**1** the State. Accordingly, any community-anchored project that involves the development or rehabilitation of a structure utilized by a cultural arts institution shall not be subject to further net benefits analysis by the authority beyond a determination of program eligibility. The authority shall assess the cost of these reviews to the applicant. An anchor institution **[**and, if applicable, each partner anchor institution**]** shall pay to the authority the full amount of the direct costs of an analysis concerning the anchor institution's **[**and, if applicable, each partner anchor institution's**]** application for tax credits that a third party retained by the authority performs, if the authority deems such retention to be necessary.

d. If at any time during the eligibility period the authority determines that an anchor institution **[**or a partner anchor institution**]** made a material misrepresentation on the program application, the anchor institution **[**or partner anchor institution**]** shall forfeit or repay to the authority the value of tax credits **1[**or grant**]1** associated with that application.

(cf: P.L.2020, c.156, s.48)**]2**

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

49. a. The authority shall award tax credits **1[**and grants**]1** under the program through a competitive application process consisting of up to two award rounds 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.

b. (1) The authority shall review applications for tax credits **1[**and grants**]1** 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 **1[**or grant**]1**, all applications for community-anchored projects that satisfy the criteria set forth in sections 47 and 48 of P.L.2020, c.156 (C.34:1B-315 and C.34:1B-316) in a given award round shall be ranked on the basis of a scoring system developed by the authority through regulations adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that **[**an anchor institution or, if applicable, each partner anchor institution**]** each applicant is required to attain to be eligible for a tax credit.

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

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

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

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

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

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

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

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

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

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

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

(10) the extent to which the community-anchored project constitutes the expansion of the anchor institution **[**and, if applicable, each partner anchor institution**]** to different areas of the State;

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

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

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

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

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

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

d. Notwithstanding the provisions of **1[**subsection**]** subsections**1** c. **1**and h.**1** 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 criteria required under the program when necessary to respond to the prevailing economic conditions in the State.

e. Prior to the award of a tax credit **[**to an anchor institution or, if applicable, each partner anchor institution, to be converted into an authority investment in a community-anchored project**]**, 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 anchor institution **[**and, if applicable, each partner anchor institution**]**, along with any partner business identified in a program application, 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 anchor institution and, if applicable, each **[**partner anchor institution and any**]** partner business, and the anchor institution shall confirm that any contractors and subcontractors performing work at the community-anchored 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 community-anchored projects according to the community-anchored project's score and until either the available tax credits are exhausted or all community-anchored projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible community-anchored projects, a community-anchored project may be offered partial funding.

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; however, an anchor institution **[**or partner anchor institution**]** may revise or complete a new application to be submitted in a subsequent award round.

g. If an anchor institution **[**or partner anchor 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.

h. The scoring system developed by the authority pursuant to subsection b. of this section shall assess applications **1[**for grants**]** by an anchor institution seeking a tax credit award pursuant to the program for the development or rehabilitation of a cultural arts institution facility**1** based on criteria including, but not limited to, the following:

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

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

(3) the relationship of the community-anchored 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 community-anchored 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 community-anchored project;

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

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

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

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

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

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

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

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

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the anchor institution **[**and, if applicable, each partner anchor institution**]** for conversion into an authority investment and specify the duration of the eligibility period, which shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the community-anchored 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 49 of P.L.2020, c.156 (C.34:1B-317).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the anchor institution**[**, each partner anchor institution,**]** and any partner business provides executed financing commitments to the authority and a verification of the anchor institution's projected cash flow **[**and each partner anchor institution's cash flow**]** at the time of certification that the project is completed;

(2) specify the length of the commitment period for the community-anchored project and the terms by which the anchor institution **[**and, if applicable, each partner anchor institution**]** shall provide to the authority current or deferred returns on investment generated by the community-anchored project and commit to a structure for returns on investment;

(3) allow the anchor institution **[**and, if applicable, each partner anchor institution**]** to distribute returns on investment to the authority for the tax credits in the amount specified in the tax credit agreement at any time within the commitment period, but require such distribution to occur if the community-anchored project is sold before the end of the commitment period;

(4) specify amounts of returns to be retained by the anchor institution **[**and, if applicable, each partner anchor institution**]** for capital reserves, programming, or other purposes;

(5) identify the value of any monetary or financial benefit offered or provided by the anchor institution **[**and, if applicable, each partner anchor institution**]** to any partner business that works with the anchor institution **[**and, if applicable, each partner anchor institution to complete and operate the community-anchored project**]**;

(6) identify any benefits created by the anchor institution **[**and, if applicable, each partner anchor institution**]** for a partner business through equity investment in or debt-financing of a community-anchored project and specify the formula by which such benefits are passed through to a partner business;

(7) specify that the authority or the State may purchase tax credits offered for sale by an anchor institution **[**and, if applicable, each partner anchor institution**]** for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(8) at a minimum, require an anchor institution **[**and, if applicable, each partner anchor institution**]** to provide oversight of the community-anchored project through ongoing reporting by a partner business to the anchor institution **[**and, if applicable, each partner anchor institution**]**, and subsequent ongoing reporting by the anchor institution **[**and, if applicable, each partner anchor institution**]** to the authority;

(9) specify other measures through which the authority shall ensure oversight of outstanding tax credit investments, and, in the event that an anchor institution **[**or partner anchor institution**]** fails to meet its obligations under the tax credit agreement or any program requirement, establish the right of the authority to assume direct oversight of any or all projects for which the anchor institution **[**or partner anchor institution**]** has entered into investment agreements and require the anchor institution **[**or partner anchor institution**]** to pursue any remedies it may have against a partner business; and

(10) at a minimum, require that the anchor institution and, if applicable, each **[**partner anchor institution, and any**]** partner **[**businesses,**]** business adopt specific nondiscrimination policies for the operation of a community-anchored project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the anchor institution and, if applicable, each **[**partner institution and any**]** partner business. As part of the authority's review of the annual reports required from each anchor institution and, if applicable, each partner **[**institution**]** business, 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 anchor institution and, if applicable, each **[**partner institution and any**]** partner business 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 anchor institution and, if applicable, each **[**partner anchor institution and any**]** partner business, and the anchor institution shall confirm that any contractors and subcontractors performing work at the community-anchored 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 anchor institution **[**and, if applicable, each partner institution**]** shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement or the anchor institution **[**and, if applicable, each partner 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. **1[**(1) A grant agreement shall specify the amount of the grant that the authority shall award to the anchor institution. The grant agreement shall provide an estimated date of completion for the community-anchored 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 grant agreement, the authority rescinds a grant in the same calendar year in which the authority approved the grant, then the authority may assign the grant to another applicant that attained the minimum score determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-317).

f. A grant agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the anchor institution and, if applicable, each partner business. As part of the authority's review of the annual reports required from each anchor institution and, if applicable, each partner business, 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 anchor institution and, if applicable, each partner business 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 anchor institution and, if applicable, each partner business, and the anchor institution shall confirm that any contractors and subcontractors performing work at the community-anchored 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.); and (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. The grant agreement shall include a provision that the anchor institution shall forfeit the grant in any year in which an uncured default exists under the grant agreement or the anchor 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 grant agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting requirement.

g.**]1** An anchor institution **[**and, if applicable, each partner 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 anchor institution **[**and, if applicable, each partner institution**]**, or an authorized agent of the anchor institution **[**or partner institution**]**, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

(cf: P.L.2021, c.160, s.21)**]2**

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

51. a. Up to the limits established in subsection b. of this section and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the community-anchored project, or upon any other event evidencing project completion as set forth in the tax credit agreement, an anchor institution **[**and, if applicable, each partner institution**]** of an approved community-anchored project shall be awarded a base tax credit of $5,000,000 for conversion into an authority investment in the community-anchored project.

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

(cf: P.L.2020, c.156, s.51)**]2**

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

52. a. An anchor institution **[**and, if applicable, each partner institution**]** that is awarded a tax credit under sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) 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 anchor institution **[**and, if applicable, each partner institution**]** is aware of any condition, event, or act that would cause the anchor institution **[**or partner institution**]** not to be in compliance with the tax credit agreement or the provisions of sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The anchor institution **[**and, if applicable, each partner institution,**]** or an authorized agent of the anchor institution **[**or partner institution,**]** shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

b. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the anchor institution **[**and, if applicable, each partner 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 anchor institution **[**and, if applicable, each partner institution**]** for conversion into an authority investment in the community-anchored project, that the anchor institution **[**and, if applicable, each partner institution**]** may:

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

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the community-anchored project, if that use is in accordance with rules and regulations adopted by the authority, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), 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 anchor institution **[**and, if applicable, each partner institution**]** and the authority to provide the anchor institution **[**and, if applicable, each partner institution**]** with a tax credit transfer certificate, as described in section 53 of P.L.2020, c.156 (C.34:1B-321), or a tax credit certificate for the value awarded by the authority for that year that the anchor institution **[**and, if applicable, each partner institution**]** may use as provided in paragraph (1) of this subsection b. and in accordance with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.

(cf: P.L.2020, c.156, s.52)**]2**

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

53. a. An anchor institution **[**and, if applicable, each partner 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 anchor institution **[**or partner institution**]** from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, in the privilege period during which the anchor institution **[**or partner 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, or the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq.

b. The anchor institution **[**or partner institution**]** shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the anchor institution **[**or partner 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 an anchor institution **[**or partner institution**]** by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321 ) and any other terms and conditions that the director may prescribe.

c. A purchaser or assignee of a tax credit transfer certificate pursuant to this section may make any subsequent transfers, assignments, or sales of a tax credit transfer certificate for an amount to be negotiated with a subsequent purchaser or assignee.

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.2020, c.156, s.53)**]2**

**2**1. (New section) P.L. , c. (C. ) (pending before the Legislature as this bill) shall be known and may be cited as the “Cultural Arts Incentives Program Act.”**2**

**2**2. (New section) 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.

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** **2**3. (New section) As used in P.L. , c. (C. ) (pending before the Legislature as this bill):

"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 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).

"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, 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. , c. (C. ) (pending before the Legislature as this bill).

"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.    , c.    (C.        ) (pending before the Legislature as this bill) 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. 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. , c. (C. ) (pending before the Legislature as this bill) 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.).**2**

**2**4. (New section) 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. , c. (C. ) (pending before the Legislature as this bill), and may approve the award of a tax credit to a cultural arts institution pursuant to the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill). 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.**2**

**2**5. (New section) 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 and then operate the cultural arts project;

(3) 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;

(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 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.**2**

**2**6. (New section) a. Prior to March 1, 2029, a cultural arts institution seeking a tax credit pursuant to the program that satisfies the eligibility criteria set forth in section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill) shall submit an application to the authority in a form and manner prescribed in regulations adopted by the authority, in consultation with the New Jersey State Council on the Arts. The authority shall accept and certify applications for tax credits during the award rounds established pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. The authority shall not consider an application for a cultural arts project unless the cultural arts institution submits, with the application, a letter evidencing support for the cultural arts project from the chief executive or governing body of the municipality in which the cultural arts project is located.

c. The authority shall review the project costs for a proposed cultural arts project and evaluate and validate the underlying financial structure proposed by the cultural arts institution. The authority shall review an independent market study submitted to the authority by the cultural arts institution 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. The authority shall assess the cost of these reviews to the applicant. A cultural arts institution shall pay to the authority the full amount of the direct costs of an analysis concerning the cultural arts institution's application for tax credits that a third party retained by the authority performs, if the authority deems such retention to be necessary.

d. If at any time during the eligibility period the authority determines that a cultural arts institution made a material misrepresentation on the program application, the cultural arts institution shall forfeit or repay to the authority the value of tax credits associated with that application.**2**

**2**7. (New section) 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.

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. , c. (C. ) (pending before the Legislature as this bill) 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.

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 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.    , c.    (C.        ) (pending before the Legislature as this bill).

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; however, a cultural arts institution may revise or complete 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.**2**

**2**8. (New section) a. Following approval and selection of an application pursuant to sections 6 and 7 of P.L. , c. (C. ) (pending before the Legislature as this bill), 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. , c. (C. ) (pending before the Legislature as this bill).

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.    , c.    (C.        ) (pending before the Legislature as this bill), 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.**2**

**2**9. (New section) a. Up to the limits established in paragraph (1) of subsection b. of section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill), 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. , c. (C. ) (pending before the Legislature as this bill) 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.    , c.    (C.        ) (pending before the Legislature as this bill), or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) 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. , c. (C. ) (pending before the Legislature as this bill); 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.    , c.    (C.        ) (pending before the Legislature as this bill), 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.**2**

**2**10. (New section) 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. , c. (C. ) (pending before the Legislature as this bill) 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 transferee may carry forward all or part of the tax credit amount in any of the next five successive tax periods. 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.**2**

**2[**10.**]** 11.**2** (New section) Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the chief executive officer of the authority shall, in consultation with the **2[**agency**]** New Jersey State Council on the Arts**2**, 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 **2[**sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), as amended by**]2** P.L. , c. (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**2**, in consultation with the New Jersey State Council on the Arts,**2** 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.).

**2**12. Section 48 of P.L.2020, c.156 (C.34:1B-316) is amended to read as follows:

48. a. **[**Prior**]** Beginning January 1, 2026, but prior to March 1, **[**2027**]** 2029, an anchor institution and, if applicable, each partner anchor institution seeking a tax credit pursuant to the program shall submit an application to the authority in a form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall accept and certify applications for tax credits during the award rounds established pursuant to section 49 of P.L.2020, c.156 (C.34:1B-317).

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

c. The authority shall review the project costs for a proposed community-anchored project and evaluate and validate the underlying financial structure proposed by the anchor institution and, if applicable, each partner anchor institution. The authority shall conduct a State fiscal impact analysis to ensure that the overall value of tax credits provided to the community-anchored project is projected to result in net benefits to the State, taking into account the current and deferred returns to the authority. The authority shall assess the cost of these reviews to the applicant. An anchor institution and, if applicable, each partner anchor institution shall pay to the authority the full amount of the direct costs of an analysis concerning the anchor institution's and, if applicable, each partner anchor institution's application for tax credits that a third party retained by the authority performs, if the authority deems such retention to be necessary.

d. If at any time during the eligibility period the authority determines that an anchor institution or a partner anchor institution made a material misrepresentation on the program application, the anchor institution or partner anchor institution shall forfeit or repay to the authority the value of tax credits associated with that application.**2**

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

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

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

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

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

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

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (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. , c. (C. ) (pending before the Legislature as this bill), the total value of tax credits **[**annually**]** awarded during **[**each of the first six years of**]** the nine-year period shall not exceed **[**$200 million, except that during each of the first six years of the nine-year period,**]** $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 **[**of the first six years of the nine-year period**]** 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 **[**, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits from any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year,**]** without consideration to the county in which a project is located;

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

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

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

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

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

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

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

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

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

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

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

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

(vii) increased development proximate to mass transit facilities;

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

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

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

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

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

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

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

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

**2[**11.**]** 14.**2** This act shall take effect immediately.