

SENATE, No. 4023

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 26, 2023

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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

3

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

6

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 e. Prior to the board considering an application submitted by a
21 developer, the authority shall confirm with the Department of Labor
22 and Workforce Development, the Department of Environmental
23 Protection, and the Department of the Treasury whether the
24 developer is in substantial good standing with the respective
25 department, or has entered into an agreement with the respective
26 department that includes a practical corrective action plan for the
27 developer. The developer shall certify that any contractors or
28 subcontractors that will perform work at the redevelopment project:
29 (1) are registered as required by "The Public Works Contractor
30 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
31 not been debarred by the Department of Labor and Workforce
32 Development from engaging in or bidding on Public Works
33 Contracts in the State; and (3) possess a tax clearance certificate
34 issued by the Division of Taxation in the Department of the
35 Treasury. The authority may also contract with an independent
36 third party to perform a background check on the developer.
37 (cf: P.L.2021, c.160, s.23)

38

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40

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

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

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

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

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

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

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

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

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

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

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

29

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26

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

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

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

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

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

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

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

45
46 14. This act shall take effect immediately.

STATEMENT

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

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

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

26
27 *Limitations on Tax Credit Awards*

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

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

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

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

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

18

19 *Eligibility Requirements for Commercial Projects*

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

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

1 *Requirements for Residential Projects*

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

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

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

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

38

39 *Transformative Projects*

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

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

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

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

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

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

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

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

1 *Additional Conditions of Incentive Award*

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

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

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

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

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

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

13

14 *Miscellaneous Program Changes*

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

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

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

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

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

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

20

21 *Applicability to Prior and Future Applications*

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

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

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

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

3

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

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

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

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

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