

[First Reprint]

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)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Co-Sponsored by:

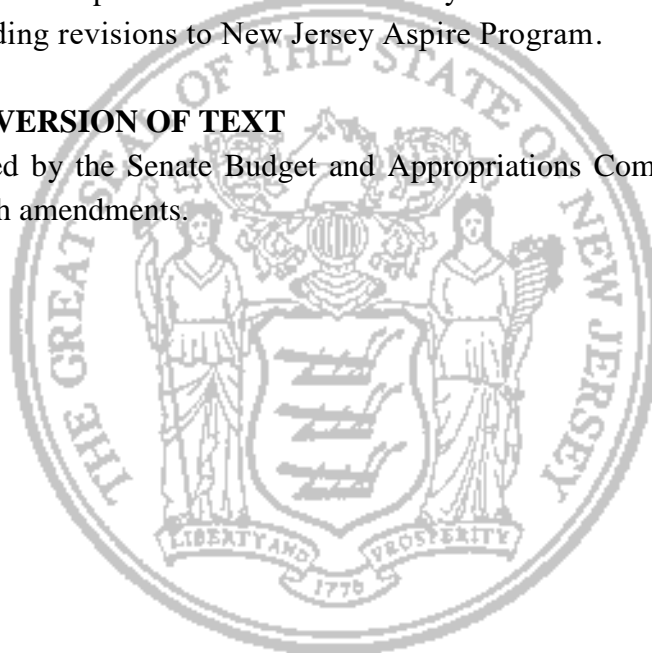
Senator Turner and Assemblyman Wimberly

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 27, 2023, with amendments.



(Sponsorship Updated As Of: 6/30/2023)

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
 46 on which the redevelopment project is situated. The collaborative

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 27, 2023.

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

6 "Commercial project" means a redevelopment project, which is
7 predominantly commercial and, if located in a government-
8 restricted municipality, contains [100,000] 25,000 or more square
9 feet, or if located in any other municipality, contains 50,000 or
10 more square feet of office and retail space, industrial space, or film
11 studios, professional stages, television studios, recording studios,
12 screening rooms, or other infrastructure for film production, [for
13 purchase or lease] and may include a parking component. The term
14 "commercial project" includes a redevelopment project comprised
15 solely of a health care or health services center, which contains not
16 less than 10,000 square feet devoted to health care or health
17 services, and which may include a parking component.

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

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

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

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

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

48 "Enhanced area" means (1) a municipality that contains an urban
49 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-

208); (2) the five municipalities with the highest poverty rates according to the 2017 Municipal Revitalization Index; and (3) the three municipalities with the highest percentage of SNAP recipients according to the 2017 Municipal Revitalization Index.

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

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

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

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

"Health care or health services center" means an establishment that consists of not less than 10,000 square feet devoted to health care or health services, where patients are admitted for or seek examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, and which is located in a municipality ¹[that lacks adequate access to health care services, as annually determined by the Commissioner of Health] with a Municipal Revitalization Index distress score of at least 50, a distressed municipality, or a qualified incentive tract¹.

"Hospitality establishment" means a hotel, motel, or any business, however organized, that sells food, beverages, or both for 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;
12 '[and]' an area designated as a brownfield site pursuant to the
13 "Brownfield and Contaminated Site Remediation Act," sections 23
14 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.)
15 1; and an area of not less than 100 acres for which a licensed site
16 remediation professional has certified environmental remediation
17 costs, as defined in this section and in accordance with the "Site
18 Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60
19 (C.58:10C-1 et seq.), in an amount not less than \$10,000,000¹,
20 provided that any portion of '[the brownfield site]' such area¹ is
21 located in an area that otherwise qualifies as an incentive area.

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

26 "Incentive award agreement" means the contract executed
27 between a developer and the authority pursuant to section 60 of
28 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
29 conditions under which the developer may receive the incentive
30 awards authorized pursuant to the provisions of sections 54 through
31 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

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

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

46 "Labor harmony agreement" means an agreement between a
47 business that serves as the owner or operator of a retail
48 establishment, hospitality establishment, or distribution center and

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

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

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

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

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

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

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

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

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

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

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

26 "Project cost" means the costs incurred in connection with a
27 redevelopment project by a developer until the issuance of a
28 permanent certificate of occupancy, or until such other time
29 specified by the authority, for a specific investment or
30 improvement, including the costs relating to lands, except the cost
31 of acquiring such lands, buildings, improvements, real or personal
32 property, or any interest therein, including leases discounted to
33 present value, including lands under water, riparian rights, space
34 rights, and air rights acquired, owned, developed or redeveloped,
35 constructed, reconstructed, rehabilitated, or improved, any
36 environmental remediation costs, plus costs not directly related to
37 construction, including capitalized interest paid to third parties, of
38 an amount not to exceed 20 percent of the total costs and the cost of
39 infrastructure improvements, including ancillary infrastructure
40 projects. When 100 percent of the residential units constructed in a
41 residential project are reserved for occupancy by low- and
42 moderate-income households, the term "project cost" shall also
43 include the developer fees paid before acquiring permanent
44 financing, as well as the deferred developer fees approved pursuant
45 to the rules established by the agency. The fees associated with the
46 application or administration of a grant under sections 54 through
47 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall not
48 constitute a project cost.

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

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

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

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

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

1 returns on equity other than federal or local grants or proceeds from
2 the sale of federal or local tax credits, the “reasonable and
3 appropriate return on investment” shall be based on both the
4 discount rate at which the present value of the future cash flows of
5 an investment equal the cost of the investment for the entire project,
6 and when evaluating only the units financed with federal low-
7 income housing tax credits awarded by the agency, the approval of
8 deferred developer fees pursuant to the rules established by the
9 agency.

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

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

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

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

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

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

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

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

1 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
2 208) and **also** is located within a qualified incentive area.

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

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

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

17

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

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

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

1 constructed for occupancy by low- and moderate-income
2 households.

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

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

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

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

15 (1) without the incentive award, the redevelopment project is
16 not economically feasible;

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

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

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

31 (5) the redevelopment project shall comply with minimum
32 environmental and sustainability standards;

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

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

43 (b) during the eligibility period, each worker employed to
44 perform building services work at the redevelopment project ¹,
45 whether pursuant to contract by the developer or a commercial
46 tenant, commercial subtenant, or other commercial occupant, ¹ shall
47 be paid not less than the prevailing wage rate for the worker's craft
48 or trade, as determined by the Commissioner of Labor and

Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except that '[(i)]' this requirement shall not apply to workers employed to perform building services work by a 'commercial' tenant ', commercial subtenant, or other commercial occupant' that has a leasehold interest 'or other occupancy right' in a redevelopment project, which leasehold interest 'or other occupancy right' encompasses less than 5,000 square feet of space within the project '[(i); and (ii) if] . The developer shall include in all commercial leases or other commercial occupancy agreements, and shall require that all subleases or other commercial occupancy agreements applicable to the redevelopment project include, a provision setting forth the requirements of this subparagraph, which provision shall be in a form acceptable to the authority. Notwithstanding any provisions of law to the contrary, if a commercial tenant, commercial subtenant, or other commercial occupant violates this provision due to the underpayment of the required prevailing wage rate, then the issuance of tax credits to the developer and any co-applicant shall be delayed until such time as documentation demonstrating compliance has been provided to the Commissioner of Labor and Workforce Development, subsequently reviewed and approved by the Commissioner of Labor and Workforce Development, and verified by the authority, which reviews and verification shall be completed. If a violation is not cured, or is not capable of being cured, within one year of receipt of notice of the violation, then the developer and any co-applicant shall forfeit 50 percent of the tax credits otherwise authorized for the tax period in which the notice of violation was issued. If the violation is not cured on or before the conclusion of that tax period, the developer and any co-applicant shall forfeit up to 100 percent of the tax credits otherwise authorized, as determined by the authority, in each subsequent tax period until the first tax period for which documentation demonstrating compliance has been provided to the Commissioner of Labor and Workforce Development, subsequently reviewed and approved by the Commissioner of Labor and Workforce Development, and verified by the authority, which reviews and verifications shall be completed. In this event, the developer and any co-applicant shall be allowed the full tax credit amount beginning in the tax period in which documentation of compliance was reviewed and approved by Commissioner of Labor and Workforce Development and verified by the authority, and including each subsequent tax period in which the tax credits are otherwise authorized;

(c) in the event' a redevelopment project ', or any portion thereof,' is undertaken by a tenant 'pursuant to a contract' and the tenant has a leasehold of more than 55 percent of space in the building owned or controlled by the developer, [the] '[(this)] the' requirement [that each worker employed to perform building

1 service work at the building be paid not less than the prevailing
2 wage] ¹that each worker employed to perform building service
3 work at the building be paid not less than the prevailing wage¹ shall
4 apply to the entire building, except as otherwise provided in ¹[sub-
5 subparagraph (i) of this]¹ subparagraph ¹(b) of this paragraph for
6 commercial tenants, commercial subtenants, or other commercial
7 occupants with a leasehold interest or other occupancy right
8 encompassing less than 5,000 square feet¹;

9 (8) (a) the redevelopment project shall be completed, and the
10 developer shall be issued a certificate of occupancy for the
11 redevelopment project facilities by the applicable enforcing agency
12 ^{1,1} within four years of executing the incentive award agreement, or
13 in the case of a redevelopment project with a project cost in excess
14 of \$50,000,000, the incentive phase agreement corresponding to the
15 redevelopment project; or

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

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

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

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

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

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

44 (2) have a total project cost of at least \$10,000,000 if the project
45 is located in a municipality with a population less than 200,000
46 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 4. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to
39 read as follows:

40 58. a. Prior to March 1, **[2027]** 2029, for redevelopment
41 projects eligible pursuant to section 57 of P.L.2020, c.156
42 (C.34:1B-325) for which a developer is seeking an incentive award
43 for the redevelopment project, the developer shall submit an
44 application to the authority and, in the case of a residential project,
45 shall submit an application to the authority and the agency, in a
46 form and manner prescribed in regulations adopted by the authority
47 **[, in consultation with the agency,]** pursuant to **[the provisions of**
48 **the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et**

1 seq.) **】** section 67 of P.L.2020, c.156 (C.34:1B-335). The authority
2 shall accept applications for incentive awards during the grant
3 periods established pursuant to section 59 of P.L.2020, c.156
4 (C.34:1B-327).

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

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

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

1 to demonstrate that the award of tax credits will yield a net positive
2 benefit to the State in accordance with this subsection are true and
3 accurate at the time of submission.

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

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

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

32 (5) ¹A commercial project that is located on land owned by the
33 federal government on or before December 31, 2005 shall yield a
34 net positive benefit to the State that exceeds the requested tax credit
35 amount, but the net benefit requirement set by the authority for such
36 redevelopment projects may be up to 35 percentage points lower
37 than the net benefit requirement set by the authority for all other
38 eligible redevelopment projects.

39 (6)¹ A redevelopment project that is undertaken by a major
40 cultural institution to renovate existing space or expand services
41 into additional space, and in which the major cultural institution
42 realizes all returns from the redevelopment project, shall yield a net
43 positive benefit to the State that exceeds the requested tax credit
44 amount, but the net benefit requirement set by the authority for such
45 redevelopment projects may be lower than the net benefit
46 requirement set by the authority for all other eligible redevelopment
47 projects.

48 e. If at any time during the eligibility period the authority
49 determines that the developer made a material misrepresentation on

1 the developer's application, the developer shall forfeit the incentive
2 award.

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

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

9

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

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

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

occurs first. If insufficient funding exists to fully fund all eligible projects, a project may be offered partial funding.
(cf: P.L.2021, c.160, s.25)

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

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

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

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

c. To ensure the protection of taxpayer money, if the authority determines at project certification that the actual capital financing approach utilized by the project has resulted in a financing gap that is smaller than the financing gap determined at board approval, the authority shall reduce the amount of the tax credit or accept

1 payment from the developer on a pro rata basis. If there is no
2 project financing gap due to the actual capital financing approach
3 utilized by the project, then the developer shall forfeit the incentive
4 award. At the end of the seventh year of the eligibility period, the
5 authority shall evaluate the developer's rate of return on investment
6 and compare that rate of return on investment to the reasonable and
7 appropriate rate of return at the time of board approval. If the
8 actual rate of return on investment exceeds the reasonable and
9 appropriate rate of return on investment at the time of board
10 approval by more than 15 percent, the authority shall require the
11 developer to pay up to 20 percent of the amount in excess of the
12 reasonable and appropriate rate of return on investment. The
13 authority shall require an escrow account to be held by the authority
14 until the end of the eligibility period. Following the final year of
15 the eligibility period, the authority shall determine if the developer's
16 rate of return exceeded the reasonable and appropriate rate of return
17 determined at board approval. If the final rate of return does not
18 exceed the reasonable and appropriate rate of return determined at
19 board approval, the authority shall release to the developer the
20 escrowed funds. If the project final rate of return exceeds the
21 reasonable and appropriate rate of return determined at board
22 approval, the authority shall require the developer to pay up to 20
23 percent of the amount of the excess, which shall include the funds
24 held in escrow, and such funds shall be deposited in the State
25 General Fund.

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

48 e. (1) Except as provided in paragraph (2) of this subsection,
49 the authority shall not enter into an incentive award agreement for a

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

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

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

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

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

1 determined represent substantial numbers of retail or distribution
2 center employees in the State.】 (Deleted by amendment, P.L. __,
3 c. __) (pending before the Legislature as this bill)

4 f. (1) ¹**【For】** Except for a residential project that is located in a
5 government-restricted municipality, and in which 100 percent of the
6 residential units constructed in the residential project are reserved
7 for occupancy by low- and moderate-income households, for¹ a
8 redevelopment project whose total project cost equals or exceeds
9 \$10 million, in addition to the incentive award agreement, a
10 developer shall enter into a community benefits agreement with the
11 authority and the county or municipality in which the
12 redevelopment project is located. The agreement may include, but
13 shall not be limited to, requirements for training, employment, and
14 youth development and free services to underserved communities in
15 and around the community in which the redevelopment project is
16 located. Prior to entering a community benefits agreement, the
17 governing body of the county or municipality in which the
18 redevelopment project is located shall hold at least one public
19 hearing at which the governing body shall hear testimony from
20 residents, community groups, and other stakeholders on the needs
21 of the community that the agreement should address.

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

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

41 (4) **【A】** Notwithstanding any requirement of this subsection to
42 the contrary, a developer shall 【not be required to enter into】 be
43 considered to have met the requirements of a community benefits
44 agreement pursuant to this subsection if the developer submits to
45 the authority:

46 (a) a copy of either the developer's approval letter from the
47 authority or a redevelopment agreement applicable to the qualified
48 business facility, provided that the approval letter or redevelopment

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

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

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

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

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

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

45 61. a. Up to the limits established in subsection b. of this
46 section and in accordance with an incentive award agreement,
47 beginning upon the receipt of occupancy permits for any portion of
48 the redevelopment project, or upon any other event evidencing

1 project completion as set forth in the incentive award agreement, a
2 developer shall be allowed a total tax credit that shall not exceed:

3 (1) ¹~~70~~ 80¹ percent of the total project cost for a
4 redevelopment project that is located in a government-restricted
5 municipality;

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

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

15 (3) ~~45~~ 50 percent of the total project cost for any other
16 redevelopment project.

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

19 (1) ~~\$60,000,000~~ \$120,000,000 per redevelopment project or
20 phase for a redevelopment project that is located in a government-
21 restricted municipality;

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

29 ~~(2) \$42,000,000~~ (3) \$60,000,000 for any other redevelopment
30 project or phase.

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

32

33 ¹⁸. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
34 read as follows:

35 63. a. A developer may apply to the director and the chief
36 executive officer of the authority for a tax credit transfer certificate,
37 covering one or more years, in lieu of the developer being allowed
38 any amount of the credit against the tax liability of the developer.
39 The tax credit transfer certificate, upon receipt thereof by the
40 developer from the director and the chief executive officer of the
41 authority, may be sold or assigned, in full or in part in an amount
42 not less than \$25,000, in the privilege period during which the
43 developer receives the tax credit transfer certificate from the
44 director, to another person, who may apply the credit against a tax
45 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
46 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
47 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
48 certificate provided to the developer shall include a statement

1 waiving the developer's right to claim the amount of the credit that
2 the developer has elected to sell or assign against the developer's
3 tax liability.

4 b. The developer shall not sell or assign, including a collateral
5 assignment, a tax credit transfer certificate allowed under this
6 section for consideration received by the developer of less than 85
7 percent of the transferred credit amount before considering any
8 further discounting to present value which shall be permitted,
9 except a developer of a residential project consisting of newly-
10 constructed residential units may assign a tax credit transfer
11 certificate for consideration of less than 85 percent subject to the
12 submission of a plan to the authority and the agency to use the
13 proceeds derived from the assignment of tax credits to complete the
14 residential project, except a developer of a residential project
15 consisting of newly-constructed residential units that has received
16 federal low income housing tax credits under 26 U.S.C.
17 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
18 consideration of no less than 65 percent subject to the submission of
19 a plan to the authority and the New Jersey Housing and Mortgage
20 Finance Agency to use the proceeds derived from the assignment of
21 tax credits to complete the residential project. The tax credit
22 transfer certificate issued to a developer by the director shall be
23 subject to any limitations and conditions imposed on the application
24 of State tax credits pursuant to sections 54 through 67 of P.L.2020,
25 c.156 (C.34:1B-322 through C.34:1B-335) and any other terms and
26 conditions that the director may prescribe; provided, however, that
27 the holder of a tax credit certificate may transfer all or part of the
28 tax credit amount, on or after the date of issuance of the tax credit
29 transfer certificate, for use by the transferee in the tax period for
30 which it was issued, and the transferee may carry forward all or part
31 of the tax credit amount in any of the next five successive tax
32 periods. Notwithstanding any provision of this section to the
33 contrary, the amount of tax credits that may be claimed by the
34 transferee in any tax period shall not exceed the total tax credit
35 amount divided by the duration of the eligibility period in years.

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

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

42 (1) the name of the transferrer;

43 (2) the name of the transferee;

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

45 (4) the consideration received by the transferrer.¹

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

47
48 ¹[8.] 9.¹ Section 65 of P.L.2020, c.156 (C.34:1B-333) is
49 amended to read as follows:

1 65. a. As used in this section, "transformative project" means a
2 redevelopment project; that has a project financing gap **【,】** ; that
3 has a total project cost of at least **【\$100,000,000, and】**
4 \$150,000,000; that includes **【500,000】** 200,000 or more square feet
5 of new or substantially renovated industrial, commercial, or
6 residential space **【or】** for a project located in a government-
7 restricted municipality, that includes 250,000 or more square feet of
8 film studios, professional stages, television studios, recording
9 studios, screening rooms, or other infrastructure for film
10 production, that includes 300,000 or more square feet of new or
11 substantially renovated industrial, commercial, or residential space
12 for a project located in an enhanced area, or that includes 500,000
13 or more square feet of new or substantially renovated industrial,
14 commercial, or residential space for any other project; and 【which】
15 , for a commercial project, that is of special economic importance as
16 measured by the level of new jobs, new capital investment,
17 opportunities to leverage leadership in a high-priority targeted
18 industry, or other state priorities as determined by the authority
19 pursuant to rules and regulations promulgated to implement this
20 section. Notwithstanding the provisions of subsection b. of section
21 '**【12】 14'** of P.L. , c. (C.) (pending before the Legislature
22 as this bill) to the contrary, for applications submitted on and after
23 the effective date of P.L. , c. (C.) (pending before the
24 Legislature as this bill), if the redevelopment project is located
25 entirely on land designated by the Department of Environmental
26 Protection as a brownfield development area pursuant to section 7
27 of P.L.2005, c.223 (C.58:10B-25.1), and the project cost of the
28 redevelopment project includes at least \$15,000,000 in
29 environmental remediation costs, the redevelopment project shall
30 constitute a project of special economic importance. A
31 transformative project may be completed in phases, which phases
32 may be determined by the authority based on factors such as written
33 architectural plans and specifications completed before or during
34 the physical work, certificates of occupancy, or financial and
35 operational plans. The criteria developed by the authority shall
36 include, but shall not be limited to:

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

40 (2) (a) for a residential project, the construction of **【1,000】** 700
41 or more new residential units;

42 (b) for a residential project containing less than **【1,000】** 700
43 new residential units, the construction of **【250】** 200 or more new
44 residential units if the project is located in a government-restricted
45 municipality, **【350】** 300 or more residential units if the project is
46 located in an enhanced area, or **【600】** 400 or more residential units
47 for all other mixed-use projects;

(c) for a residential project containing less than ~~1,000~~ 700 new residential units, the construction of ~~100,000~~ 50,000 square feet or more of ~~retail or~~ commercial space ¹, with the majority being ~~commercial~~ non-retail space¹; and

(d) for a residential project, 20 percent of the new residential units shall be constructed for occupancy by low- and moderate-income households with affordability controls as ~~required under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)~~ adopted by the authority, in consultation with the agency, in accordance with paragraph (2) of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential project receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), shall be exempt from the affordability controls related to bedroom distribution; and

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

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

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

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

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

(3) Notwithstanding the provisions of section 57 of P.L.2020, c.156 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) ~~to the contrary,~~ ~~for~~ a transformative project shall be completed, and the developer shall be issued a certificate of occupancy for the transformative project facilities by the applicable enforcing agency ¹, ¹ within five years of executing the incentive award agreement ¹, except that the authority may, in its discretion, extend this deadline by up to one additional year¹. For transformative projects completed in phases, the transformative project shall be completed, and the developer shall be issued certificates of occupancy for all phases of the transformative project facilities by the applicable enforcing agency, within ~~eight~~ 10

1 years of executing either the incentive award agreement or the first
2 transformative phase agreement corresponding to the transformative
3 project.

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

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

27 (6) A transformative project receiving an incentive award
28 pursuant to this section, other than a project that includes 250,000
29 or more square feet of film studios, professional stages, television
30 studios, recording studios, screening rooms or other infrastructure
31 for film production, shall be located in an incentive area, a
32 distressed municipality, a government-restricted municipality, or an
33 enhanced area. A transformative project receiving an incentive
34 award pursuant to this section that includes 250,000 or more square
35 feet of film studios, professional stages, television studios,
36 recording studios, screening rooms or other infrastructure for film
37 production may be located anywhere in the State. **【No more than**
38 **two transformative projects receiving an incentive award pursuant**
39 **to this section shall be located in the same municipality.】** The
40 authority shall not consider an application for a transformative
41 project unless the applicant submits with its application a letter
42 evidencing support for the transformative project from the
43 governing body of the municipality in which the transformative
44 project is located.

45 c. The authority shall review the transformative project cost,
46 evaluate and validate the project financing gap estimated by the
47 developer, and conduct a State fiscal impact analysis to ensure that
48 the overall public assistance provided to the transformative project
49 will result in a net positive benefit to the State. In determining

1 whether a transformative project will result in a net positive benefit
2 to the State, the authority shall not consider the value of any taxes
3 exempted, abated, rebated, or retained under the "Five-Year
4 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
5 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
6 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
7 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
8 effect of lowering or eliminating the developer's State or local tax
9 liability. The determination made pursuant to this subsection shall
10 be based on the potential tax liability of the developer without
11 regard for potential tax losses if the developer were to locate in
12 another state. The authority shall assess the cost of these reviews to
13 the applicant. A developer shall pay to the authority the full
14 amount of the direct costs of an analysis concerning the developer's
15 application for an incentive award that a third party retained by the
16 authority performs, if the authority deems such retention to be
17 necessary. The authority shall evaluate the net economic benefits
18 on a present value basis under which the requested tax credit
19 allocation amount is discounted to present value at the same
20 discount rate as the projected benefits from the implementation of
21 the proposed transformative project for which an award of tax
22 credits is being sought. Projects that are predominantly residential
23 shall be excluded from the calculation of the net benefit test
24 required pursuant to this subsection.

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

33 e. The authority shall administer the credits awarded pursuant
34 to this section in accordance with the provisions of sections 62 and
35 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

36 f. Prior to allocating an incentive award to a developer, the
37 authority shall confirm with the Department of Labor and
38 Workforce Development, the Department of Environmental
39 Protection, and the Department of the Treasury that the developer is
40 in substantial good standing with the respective department, or the
41 developer has entered into an agreement with the respective
42 department that includes a practical corrective action plan, and the
43 developer shall certify that each contractor or subcontractor
44 performing work at the transformative project: (1) is registered as
45 required by "The Public Works Contractor Registration Act,"
46 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
47 by the Department of Labor and Workforce Development from
48 engaging in or bidding on Public Works Contracts in the State; and
49 (3) possesses a tax clearance certificate issued by the Division of

1 Taxation in the Department of the Treasury. The authority may also
 2 contract with an independent third party to perform a background
 3 check on the developer.

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

10 (1) (a) ¹**■70■** 80¹ percent of the total project cost for a
 11 transformative project that is located in a government-restricted
 12 municipality;

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

19 (c) 50 percent of the total project cost **■.** for any other
 20 transformative project;

21 (2) the total value of the project financing gap **■.**; or

22 **■\$350,000,000 whichever is less; provided, however,■** (3)
 23 \$400,000,000, except that for a transformative project that is
 24 developed in phases, the **■\$350,000,000■** \$400,000,000 limitation
 25 on incentive awards set forth in this **■subsection■** paragraph shall
 26 apply to the total aggregate award for all phases of the
 27 transformative project.

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

30 ¹10. Section 66 of P.L.2020, c.156 (C.34:1B-334) is amended to
 31 read as follows:

32 66. a. Beginning the year next following the year in which
 33 P.L.2020, c.156 (C.34:1B-269 et al.) takes effect and every two
 34 years thereafter, a State college or university established pursuant to
 35 chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant
 36 to an agreement executed between the State college or university
 37 and the authority, prepare a report on the implementation of the
 38 program, and submit the report to the authority, the Governor, and,
 39 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
 40 Legislature. Each biennial report required under this section shall
 41 include a description of each redevelopment project receiving a tax
 42 credit under the program, a detailed analysis of the consideration
 43 given in each project to the factors set forth in sections 58 and 59 of
 44 P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), in the case of a
 45 commercial project, the return on investment for incentive awards
 46 provided and the commercial project's impact on the State's
 47 economy, and any other metrics the State college or university
 48 determines are relevant based upon national best practices. The

1 authority shall prepare a written response to the report, which the
2 authority shall submit to the Governor and, pursuant to section 2 of
3 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

4 b. On or before December 31, 2023, the authority shall submit a
5 report to the Governor and, pursuant to section 2 of P.L.1991, c.164
6 (C.52:14-19.1), the Legislature on the effectiveness of the program
7 in encouraging development in government-restricted
8 municipalities, which report shall include, at a minimum,
9 recommendations to incentivize additional development in
10 government-restricted municipalities through financial assistance or
11 other incentives that the authority determines are appropriate.¹

12 (cf: P.L.2020, c.156, s.66)

13
14 ¹**[9.] 11.**¹ Section 67 of P.L.2020, c.156 (C.34:1B-335) is
15 amended to 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)

44
45 ¹**[10.] 12.**¹ Section 71 of P.L.2020, c.156 (C.34:1B-339) is
46 amended to read as follows:

47 71. a. Beginning on the effective date of P.L.2020, c.156
48 (C.34:1B-269 et al.), but prior to March 1, **[2027]** 2029, to be

1 eligible for tax credits under the program, a business's chief
2 executive officer, or equivalent officer, shall demonstrate to the
3 authority at the time of application that:

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

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

10 (3) the qualified business facility is located in a qualified
11 incentive area;

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

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

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

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

41 (c) the net economic benefits shall be evaluated on a present
42 value basis with the requested tax credit allocation amount
43 discounted to present value at the same discount rate as the benefits
44 from capital investment resultant from the award of tax credits and
45 the resultant retention and creation of full-time jobs as provided in
46 subparagraph (d) of this paragraph; and

47 (d) a business may elect a period of extended commitment
48 beyond the commitment period for which time the economic
49 benefits shall be creditable to the determination of the net economic

1 benefit of the project, and a business electing a period of extended
2 commitment and failing to maintain the project through the
3 expiration of that extended commitment period shall be obligated to
4 repay a proportion of the incremental benefits received on account
5 of having extended the commitment period, taking into
6 consideration the number of years of extended commitment during
7 which the business maintained the project;

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

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

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

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

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

41 (i) the work performed under the contract is performed at a
42 qualified business facility owned by a landlord that is not a business
43 receiving authority assistance;

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

46 (iii) the qualified business facility constitutes a lease of less than
47 35 percent of the entire facility at the time of contract and under any
48 agreement to subsequently lease the qualified business facility.

49 (b) In accordance with section 1 of P.L.1979, c.303

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 f. A business eligible pursuant to this section may submit an
41 application to the authority in accordance with the provisions of
42 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
43 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
44 March 1, **[2027]** 2029.

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

1 ¹**[11.] 13.**¹ Section 98 of P.L.2020, c.156 (C.34:1B-362) is
2 amended to read as follows:

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

23 b. (1) The total value of tax credits awarded under any
24 constituent program of the "New Jersey Economic Recovery Act of
25 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
26 following annual limitations, except as otherwise provided in
27 subsection c. of this section:

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

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

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

47 (d) for tax credits awarded under the "Food Desert Relief Act,"
48 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through

1 C.34:1B-310), the total value of tax credits annually awarded during
2 each of the first six years of the **【seven-year】** nine-year period shall
3 not exceed \$40 million;

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

30 (f) for tax credits awarded under 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), and the "Emerge Program
33 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et
34 al.), not including tax credits awarded for transformative projects,
35 the total value of tax credits annually awarded during each of the
36 first six years of the **【seven-year】** nine-year period shall not exceed
37 \$1.1 billion. If the authority awards tax credits in an amount less
38 than the annual limitation, then the uncommitted portion of the
39 annual limitation shall be made available for qualified offshore
40 wind projects awarded under section 6 of P.L.2010, c.57
41 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or
42 New Jersey studio partners and New Jersey film-lease partners
43 awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b
44 and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph.
45 During each of the first six years of the **【seven-year】** nine-year
46 period, the authority shall annually award tax credits valuing no
47 greater than \$715 million for projects located in the northern
48 counties of the State, and the authority shall annually award tax

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

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

34 (h) from the tax credits made available, pursuant to
35 subparagraph (f) of this paragraph, to 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 an amount not to exceed \$350,000,000 shall be made available for
41 qualified offshore wind projects awarded a credit pursuant to
42 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
43 years of the **【seven-year】** nine-year period; **【and】**

44 (i) beginning in fiscal year 2025, from the tax credits made
45 available, pursuant to subparagraph (f) of this paragraph, to the
46 "New Jersey Aspire Program Act," sections 54 through 67 of
47 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
48 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156

(C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners and New Jersey film-lease partners pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b); and

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

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

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

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

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

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

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

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

(vii) increased development proximate to mass transit facilities;

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

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

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

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

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

b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, if a completed application for a residential project is submitted to the authority on or before the 121st calendar day next following effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the applicant for the residential project has received all applicable approvals pursuant to the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the 121st calendar day next following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), and the applicant submits written notice to the authority, before the authority’s approval or denial of the application, electing for the application to be governed under the provisions of this subsection, then the residential units

1 constructed for occupancy by low- and moderate-income
2 households within the residential project shall not be subject to the
3 affordability controls adopted by the authority, in consultation with
4 the agency, pursuant to paragraph (2) of subsection a. of section 56
5 of P.L.2020, c.156 (C.34:1B-324) and subsection b. of section 67 of
6 P.L.2020, c.156 (C.34:1B-335). In this event, the application for
7 the residential project shall be reviewed, approved, and
8 administered in accordance with the provisions of the “New Jersey
9 Aspire Program Act,” sections 54 through 67 of P.L.2020, c.156
10 (C.34:1B-322 through C.34:1B-335), as such provisions remained
11 in effect immediately before the effective date of P.L. ,
12 c. (C.) (pending before the Legislature as this bill), including
13 the rules and regulations adopted pursuant to subsection a. of
14 section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
15 application shall be subject to:

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

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

25
26 ¹**[13.] 15.**¹ (New section) If an applicant has submitted a
27 completed program application that is pending approval by the
28 authority on the effective date of P.L. , c. (C.) (pending
29 before the Legislature as this bill), the applicant may withdraw the
30 application at any time before the authority approves or denies the
31 application. If the applicant withdraws the application, the
32 authority shall return all application fees paid by the applicant, and
33 the withdrawal shall not serve to prejudice the consideration of any
34 program application submitted by the applicant thereafter.

35
36 ¹**[14.] 16.**¹ This act shall take effect immediately.