

ASSEMBLY, No. 4619

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 20, 2024

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex and Hudson)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

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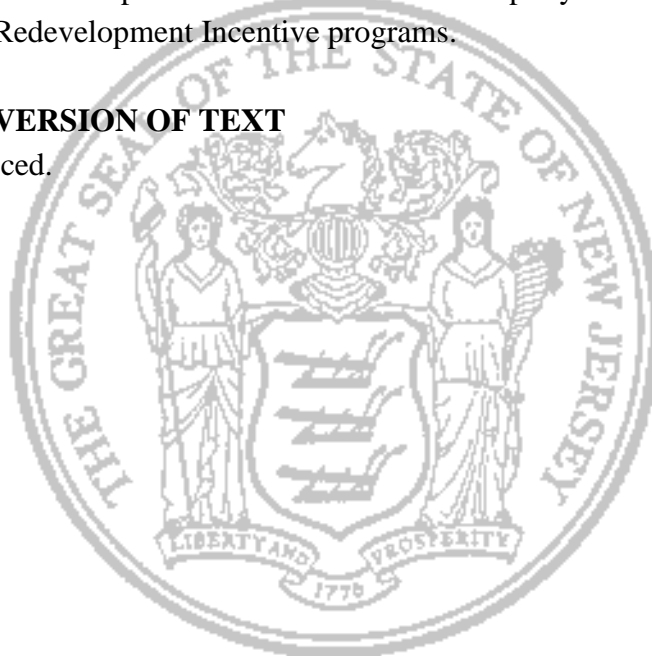
Senator Timberlake

SYNOPSIS

Modifies certain provisions of Historic Property Reinvestment and Brownfields Redevelopment Incentive programs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT concerning the “Historic Property Reinvestment Act” and
2 “Brownfields Redevelopment Incentive Program Act” and
3 amending P.L.2020, c.156.

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

7
8 1. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to
9 read as follows:

10 3. As used in sections 2 through 8 of P.L.2020, c.156
11 (C.34:1B-270 through C.34:1B-276):

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

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

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

28 "Cost of rehabilitation" means the consideration given, valued in
29 money, whether given in money or otherwise, for the materials and
30 services which constitute the rehabilitation, and includes all costs
31 associated with the structural components within a qualified
32 property or transformative property and any soft costs associated
33 with a rehabilitation project, except not including any costs
34 associated with an increase in total building volume.

35 "Cost of facade rehabilitation" means the consideration given,
36 valued in money, whether given in money or otherwise, for the
37 materials and services which constitute the facade rehabilitation
38 project, and including all costs associated with necessary work to
39 address structural components embedded within exterior walls,
40 repair, reconstruction, or replacement of masonry units and mortar,
41 exterior siding fabric, doors, windows, exterior lighting fixtures,
42 and decorative components, such as metalwork, terracotta units, and
43 cast stone, except not including any costs associated with
44 demolition or interior construction.

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

Matter underlined thus is new matter.

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

3 "Exterior building features" include, but shall not be limited to,
4 structural components embedded within exterior walls, masonry
5 units and mortar, exterior siding fabric, doors, windows, exterior
6 lighting fixtures, and decorative components, such as metalwork,
7 terracotta units, and cast stone.

8 "Facade rehabilitation project" means a project consisting of the
9 repair or reconstruction of exterior building features which
10 constitute the facades of a qualified property or transformative
11 property while preserving the portions or features of the property
12 that have significant historical, architectural, and cultural values.

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

27 "Income producing property" means a structure or site that is
28 used in a trade or business or to produce rental income.

29 "New Jersey S corporation" means the same as the term is
30 defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

31 "Officer" means the State Historic Preservation Officer or the
32 official within the State designated by the Governor or by statute in
33 accordance with the provisions of chapter 3023 of Title 54, United
34 States Code (54 U.S.C. s.302301 et seq.), to act as liaison for the
35 purpose of administering historic preservation programs in the
36 State.

37 "Partnership" means an entity classified as a partnership for
38 federal income tax purposes.

39 "Project financing gap" means the part of the total cost of
40 rehabilitation, including reasonable and appropriate return on
41 investment, that remains to be financed after all other sources of
42 capital have been accounted for, including, but not limited to,
43 developer contributed capital, which shall not be less than 20
44 percent of the total cost of rehabilitation, and investor or financial
45 entity capital or loans for which the developer, after making all
46 good faith efforts to raise additional capital, certifies that additional
47 capital cannot be raised from other sources; provided, however, that
48 for a redevelopment project located in a government-restricted

1 municipality, the developer contributed capital shall not be less than
2 10 percent of the cost of rehabilitation. Developer contributed
3 capital may consist of cash, deferred development fees, costs for
4 project feasibility incurred within the 12 months prior to
5 application, property value less any mortgages when the developer
6 owns the project site, and any other investment by the developer in
7 the project deemed acceptable by the authority, as provided by
8 regulations promulgated by the authority. Property value shall be
9 valued at the lesser of either: a. the purchase price, provided the
10 property was purchased pursuant to an arm's length transaction
11 within 12 months of application; or b. the value as determined by a
12 current appraisal.

13 **["Property" means a structure, including its site improvements**
14 **and landscape features, assessed as real property, and used for: a**
15 **commercial purpose; a residential rental purpose, provided the**
16 **structure contains at least four dwelling units; or any combination**
17 **thereof.]**

18 "Qualified incentive tract" means: a. a population census tract
19 having a poverty rate of 20 percent or more; or b. a census tract in
20 which the median family income for the census tract does not
21 exceed 80 percent of the greater of the Statewide median family
22 income or the median family income of the metropolitan statistical
23 area in which the census tract is situated.

24 "Qualified property" means a property, including structures, site
25 improvements, and landscape features, assessed as real property,
26 that is used for a commercial purpose, a residential rental purpose,
27 provided the structure contains at least four dwelling units, or any
28 combination thereof; that is located in the State of New Jersey; that
29 is [an] income producing [property,] ; and that is:

30 a. (1) individually listed, or located in a district listed on the
31 National Register of Historic Places in accordance with the
32 provisions of chapter 3021 of Title 54, United States Code (54
33 U.S.C. s.302101 et seq.), or on the New Jersey Register of Historic
34 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or
35 individually designated, or located in a district designated, by the
36 Pinelands Commission as a historic resource of significance to the
37 Pinelands in accordance with the Pinelands comprehensive
38 management plan adopted pursuant to the "Pinelands Protection
39 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

40 (2) if located within a district, certified by either the officer or
41 the Pinelands Commission, as appropriate, as contributing to the
42 historic significance of the district; **[or]**

43 b. (1) individually identified or registered, or located in a
44 district composed of properties identified or registered, for
45 protection as significant historic resources in accordance with
46 criteria established by a municipality in which the property or
47 district is located if the criteria for identification or registration has
48 been approved by the officer as suitable for substantially achieving

1 the purpose of preserving and rehabilitating buildings of historic
2 significance within the jurisdiction of the municipality, and

3 (2) if located within a district, certified by the officer as
4 contributing to the historic significance of the district; or

5 c. (1) preliminarily determined by the National Park Service to
6 be of historic significance in accordance with the requirements of
7 36 C.F.R. s.67.3 and 36 C.F.R. s.67.4; and

8 (2) within one year of the issuance of the tax credits, listed on
9 the New Jersey Register of Historic Places in accordance with the
10 “New Jersey Register of Historic Places Act,” P.L.1970, c.268
11 (C.13:1B-15.128 et seq.) and the New Jersey Register of Historic
12 Places rules, N.J.A.C.7:4-1 et seq., as adopted by the Department of
13 Environmental Protection and administered through the Historic
14 Preservation Office. Failure to be listed on the New Jersey Register
15 of Historic Places within one year of issuance of the tax credit shall
16 result in the recapture of the tax credit.

17 "Rehabilitation" means the repair or reconstruction of the
18 exterior or interior, including, but not limited to, structural or
19 substrate components and electrical, plumbing, and heating
20 components, of a qualified property or transformative project to
21 make an efficient contemporary use possible while preserving the
22 portions or features of the property that have significant historical,
23 architectural, and cultural values.

24 **["Rehabilitation of the interior of the qualified property or**
25 **transformative project" means the repair or reconstruction of the**
26 **structural or substrate components and electrical, plumbing, and**
27 **heating components within the interior of a qualified property or**
28 **transformative project.]**

29 "Selected rehabilitation period" means a period of **[24]** 36
30 months if the beginning of such period is chosen by the business
31 entity during which, or parts of which, a rehabilitation is occurring,
32 or a period of 60 months if a rehabilitation is reasonably expected to
33 be completed in distinct phases set forth in written architectural
34 plans and specifications completed before or during the physical
35 work on the rehabilitation.

36 "Structural components" means the same as that term is defined
37 in 26 C.F.R. s.1.48-1.

38 "Total cost of rehabilitation" means any costs incurred for, and in
39 connection with, the rehabilitation project by the business entity and
40 any affiliate of the business entity until the issuance of a permanent
41 certificate of occupancy, or upon such other event evidencing
42 project completion as set forth in the rehabilitation agreement, and
43 includes, but is not limited to, project costs, soft costs, and cost of
44 acquisition of land and buildings.

45 "Total cost of facade rehabilitation project" means any costs
46 incurred for, and in connection with, the facade rehabilitation
47 project by the business entity and any affiliate of the business entity
48 until the issuance of a permanent certificate of occupancy, or upon

1 such other event evidencing project completion as set forth in the
2 rehabilitation agreement, and includes, but is not limited to, project
3 costs, soft costs, and cost of acquisition of land and buildings.

4 "Transformative project" means a property that is:

5 a. an income producing property, not including a residential
6 property, whose rehabilitation the authority determines will
7 generate substantial increases in State revenues through the creation
8 of increased business activity within the surrounding area;

9 b. individually listed on the New Jersey Register of Historic
10 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and
11 which, before the enactment of P.L.2020, c.156 (C.34:1B-269 et
12 al.), received a Determination of Eligibility from the Keeper of the
13 National Register of Historic Places in accordance with the
14 provisions of Part 60 of Title 36 of the Code of Federal
15 Regulations; and

16 c. (1) located within a one-half mile radius of the center point
17 of a transit village, as designated by the New Jersey Department of
18 Transportation, and located within a city of the first class, as
19 classified under N.J.S.40A:6-4; or (2) located within a government-
20 restricted municipality.

21 (cf: P.L.2021, c.160, s.1)

22
23 2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to
24 read as follows:

25 4. a. (1) A business entity, upon successful application to the
26 New Jersey Economic Development Authority, and commitment to
27 the authority to pay each worker employed to perform construction
28 work and building services work at the qualified property or
29 transformative project a wage not less than the prevailing wage rate
30 for the worker's craft or trade, as determined by the Commissioner
31 of Labor and Workforce Development pursuant to P.L.1963, c.150
32 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax
33 otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
34 5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-
35 3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5,
36 for a portion of the cost of rehabilitation paid by the business entity
37 for the rehabilitation of a qualified property or transformative
38 project, if the cost of rehabilitation during a business entity's
39 selected rehabilitation period is not less than the greater of (a) the
40 adjusted basis of the structure of the qualified property or
41 transformative project used for federal income tax purposes as of
42 the beginning of the business entity's selected rehabilitation period,
43 or (b) \$5,000. The amount of the credit claimed in any accounting
44 or privilege period shall not reduce the amount of the tax liability to
45 less than the statutory minimum provided in subsection (e) of
46 section 5 of P.L.1945, c.162 (C.54:10A-5).

47 (2) The amount of credit allowed to a business entity pursuant to
48 this section shall be as follows:

1 (a) for the rehabilitation of a qualified property located in a
2 qualified incentive tract or government-restricted municipality,
3 ~~【45】~~ 60 percent of the cost of rehabilitation paid by the business
4 entity for the rehabilitation of the qualified property or ~~【\$8】~~ \$12
5 million, whichever is less;

6 (b) for the rehabilitation of a transformative project, 45 percent
7 of the cost of rehabilitation paid by the business entity for the
8 rehabilitation of the transformative project or \$50 million,
9 whichever is less; and

10 (c) for the rehabilitation of any other qualified property not
11 subject to provisions of subparagraph (a) or (b) of this paragraph,
12 ~~【40】~~ 50 percent of the cost of rehabilitation paid by the business
13 entity for the rehabilitation of the qualified property or ~~【\$4】~~ \$8
14 million, whichever is less.

15 (3) The prevailing wage requirement for construction work shall
16 apply at a qualified property or transformative project during the
17 selected rehabilitation period, and the prevailing wage requirement
18 for building services work shall apply at a qualified property or
19 transformative project for 10 years following completion of the
20 rehabilitation work at the qualified property or transformative
21 project. In the event a qualified property or transformative project,
22 or the aggregate of all qualified properties and transformative
23 projects approved for awards under the program, constitute a lease
24 of more than 35 percent of a facility, the prevailing wage
25 requirements shall apply to the entire facility.

26 (4) Prior to approval of an application by the authority, the
27 authority shall confirm with the Department of Labor and
28 Workforce Development, the Department of Environmental
29 Protection, and the Department of the Treasury whether the
30 business entity is in substantial good standing with the respective
31 department or has entered into an agreement with the respective
32 department that includes a practical corrective action plan for the
33 business entity. The business entity shall certify that any
34 contractors or subcontractors that perform work at the qualified
35 property or transformative project: (a) are registered as required by
36 "The Public Works Contractor Registration Act," P.L.1999, c.238
37 (C.34:11-56.48 et seq.); (b) have not been debarred by Department
38 of Labor and Workforce Development from engaging in or bidding
39 on Public Works Contracts in New Jersey; and (c) possess a tax
40 clearance certificate issued by the Division of Taxation in the
41 Department of the Treasury. The authority may also contract with
42 an independent third party to perform a background check on the
43 business entity. Following approval of an application by the
44 authority, but prior to the start of any construction or rehabilitation
45 at the qualified property or transformative project, the authority
46 shall enter into a rehabilitation agreement with the business entity.
47 The authority shall negotiate the terms and conditions of the
48 rehabilitation agreement on behalf of the State.

1 (5) A rehabilitation project shall be eligible for a tax credit only
2 if the business entity demonstrates to the authority at the time of
3 application that:

4 (a) without the tax credit, the rehabilitation project is not
5 economically feasible; and

6 (b) a project financing gap exists for a rehabilitation project that
7 has a total rehabilitation cost or total facade rehabilitation cost
8 equal to or greater than \$5 million and is located outside of a
9 government-restricted municipality.

10 (6) For the purposes of paragraph (4) of this subsection, the start
11 of any construction or rehabilitation shall not be deemed to include:

12 (a) work approved by the New Jersey Historic Trust or the New
13 Jersey State Historic Preservation Office as meeting the Secretary
14 of the Interior's Standards for Rehabilitation pursuant to section
15 67.7 of Title 36, Code of Federal Regulations (36 C.F.R. s.67.7);

16 (b) work ordered by a building code or other official with
17 jurisdiction over the site of the qualified property or transformative
18 project to correct a health, safety, or other hazard and completed in
19 accordance with the Secretary of the Interior's Standards for
20 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal
21 Regulations (36 C.F.R. s.67.7);

22 (c) work completed more than two years prior to the date of
23 application; or

24 (d) work completed within two years of application and in
25 accordance with the Secretary of the Interior's Standards for
26 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal
27 Regulations (36 C.F.R. 67.7).

28 (7) Any work completed before the start of construction or
29 rehabilitation may be considered as part of the project, but shall not
30 be a cost of rehabilitation or cost of facade rehabilitation.

31 b. A business entity may claim a credit under this section
32 during the accounting or privilege period: (1) in which it makes the
33 final payment for the cost of the rehabilitation if the business entity
34 has chosen a selected rehabilitation period of 24 months; or (2) in
35 which a distinct project phase of the rehabilitation is completed if
36 the business entity has chosen a selected rehabilitation period of 60
37 months. The credit may be claimed against any State tax, listed in
38 paragraph (1) of subsection a. of this section, liability otherwise due
39 after any other credits permitted pursuant to law have been applied.
40 The amount of credit claimed in an accounting or privilege period
41 that cannot be applied for that accounting or privilege period due to
42 limitations in this section may be transferred pursuant to section 5
43 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to
44 the nine accounting or privilege periods following the accounting or
45 privilege period for which the credit was allowed.

46 c. A business entity shall submit to the authority satisfactory
47 evidence of the actual cost of rehabilitation, as certified by a
48 certified public accountant, evidence of completion of the

1 rehabilitation or phase, and a certification that all information
2 provided by the business entity to the authority is true, including
3 information contained in the application, the rehabilitation
4 agreement, any amendment to the rehabilitation agreement, and any
5 other information submitted by the business entity to the authority
6 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
7 through C.34:1B-276). The business entity, or an authorized agent
8 of the business entity, shall certify under the penalty of perjury that
9 the information provided pursuant to this subsection is true.
10 (cf: P.L.2021, c.160, s.2)

11

12 3. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to
13 read as follows:

14 6. a. The authority shall, in consultation with the officer and
15 the director, promulgate rules and regulations in accordance with
16 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.), as the officer deems necessary to administer the provisions of
18 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
19 C.34:1B-276), including but not limited to rules establishing
20 administrative fees to implement the provisions of sections 2
21 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),
22 and setting of an annual application submission date, requiring
23 annual reporting by each business entity that receives a tax credit
24 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
25 through C.34:1B-276). As part of the authority's review of the
26 annual reports required from each business entity that receives a tax
27 credit, the authority shall confirm with the Department of Labor and
28 Workforce Development, the Department of Environmental
29 Protection, and the Department of the Treasury that: the business
30 entity is in substantial good standing with the respective
31 department, or has entered into an agreement with the respective
32 department that includes a practical corrective action plan for the
33 business entity, and the business entity shall certify that any
34 contractors or subcontractors performing work at the qualified
35 property or transformative project: (1) are registered as required by
36 "The Public Works Contractor Registration Act," P.L.1999, c.238
37 (C.34:11-56.48 et seq.); (2) have not been debarred by the
38 Department of Labor and Workforce Development from engaging
39 in or bidding on Public Works Contracts in the State; and (3)
40 possess a tax clearance certificate issued by the Division of
41 Taxation in the Department of the Treasury. The rules and
42 regulations adopted pursuant to this section shall also include a
43 provision to require that business entities forfeit all tax credits
44 awarded in any year in which the Department of Labor and
45 Workforce Development, the Department of Environmental
46 Protection, or the Department of the Treasury advises the authority
47 that the business entity is not in substantial good standing nor has
48 the business entity entered into an agreement with the respective

1 department that includes a practical corrective action plan, and to
2 allow the authority to extend, in individual cases, the deadline for
3 any annual reporting or certification requirement established
4 pursuant to this section.

5 b. For every tax credit allowed pursuant to section 4 of
6 P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with
7 the officer, shall certify to the director: the total cost of
8 rehabilitation or total cost of facade rehabilitation project; that the
9 property meets the definition of qualified property or transformative
10 project, as applicable; and that the rehabilitation or facade
11 rehabilitation project has been completed in substantial compliance
12 with the requirements of the Secretary of the Interior's Standards for
13 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal
14 Regulations. The business entity shall attach the certification to the
15 tax return on which the business entity claims the credit.

16 c. (1) The total amount of credits approved by the authority
17 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
18 through C.34:1B-276) shall not exceed the limitations set forth in
19 section 98 of P.L.2020, c.156 (C.34:1B-362). For the purpose of
20 determining the aggregate value of tax credits approved in a fiscal
21 year, a tax credit shall be deemed to have been approved at the time
22 the authority approves an application for an award of a tax credit.
23 If the authority approves less than the total amount of tax credits
24 authorized pursuant to this subsection in a fiscal year, the remaining
25 amount, plus any amounts remaining from previous fiscal years,
26 shall be added to the limit of subsequent fiscal years until that
27 amount of tax credits are claimed or allowed. Any unapproved,
28 uncertified, or recaptured portion of tax credits during any fiscal
29 year may be carried over and reallocated in succeeding years.

30 (2) Notwithstanding the provisions of paragraph (1) of this
31 subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the
32 contrary, the authority may approve tax credits, pursuant to sections
33 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-
34 276), for the rehabilitation of a transformative project in an amount
35 that causes the total amount of credits approved during the fiscal
36 year to exceed the limitations set forth in section 98 of P.L.2020,
37 c.156 (C.34:1B-362), provided that the amount of the excess shall
38 be subtracted from the total amount of credits that may be approved
39 by the authority in the subsequent fiscal year, and the amount of the
40 excess shall not exceed 50 percent of the total tax credits otherwise
41 authorized for the fiscal year.

42 (3) The authority, in consultation with the officer, shall devise
43 criteria for allocating tax credit amounts if the approved amounts
44 combined exceed the total amount in each fiscal year, including
45 rules that allocate over multiple fiscal years a single credit amount
46 granted in excess of \$2,000,000. The criteria shall include a
47 project's historic importance, positive impact on the surrounding
48 neighborhood, economic sustainability, geographic diversity, and

1 consistency with Statewide growth and development policies and
2 plans.

3 (4) At the authority's discretion, up to 50 percent of the tax
4 credits available for distribution in any given year may be allocated
5 to facade rehabilitation projects. The amount of credit allowed to a
6 business entity pursuant to this paragraph shall be 50 percent of the
7 cost of facade rehabilitation for a project or \$4 million, whichever
8 is less. The tax credits allocated pursuant to this paragraph shall be
9 awarded through a competitive application process whereby the
10 authority shall evaluate all applications submitted by a date certain,
11 as if all received applications were submitted on that date.
12 Notwithstanding the provisions of section 4 of P.L.2020, c.156
13 (C.34:1B-272), a project financing gap analysis shall not be
14 required for the submission or approval of these applications.
15 When scoring applications, the authority shall consider factors
16 including, but not limited to: the retention of existing historic
17 fabric versus demolition; building location, with preference given to
18 buildings that contribute to the historic significance of a historic
19 district; and the amount of community support for the project.

20 d. Notwithstanding any provision of the "Administrative
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
22 contrary, the chief executive officer of the authority may adopt,
23 immediately upon filing with the Office of Administrative Law,
24 rules and regulations necessary to implement the provisions of
25 P.L. , c. (pending before the Legislature as this bill). The rules
26 and regulations adopted pursuant to this section shall be effective
27 for a period not to exceed 365 days following the date of filing and
28 may thereafter be amended, adopted, or readopted by the director in
29 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
30 et seq.).

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

32

33 4. Section 7 of P.L.2020, c.156 (C.34:1B-275) is amended to
34 read as follows:

35 7. a. The authority, in collaboration with the director, shall
36 adopt rules for the recapture of an entire or partial tax credit amount
37 allowed under sections 2 through 8 of P.L.2020, c.156 (C.34:1B-
38 270 through C.34:1B-276). The rules shall require the authority to
39 notify the director of the recapture of an entire or partial tax credit
40 amount. Recaptured funds shall be deposited in the General Fund
41 of the State.

42 b. If, before the end of five full years after the completion of
43 the rehabilitation of the qualified property or transformative project,
44 a developer that has received a tax credit pursuant to section 4 of
45 P.L.2020, c.156 (C.34:1B-272) modifies the qualified property or
46 transformative project so that it ceases to meet the requirements for
47 the rehabilitation of a qualified property or transformative project as
48 defined under the program or ceases to meet the requirement of the

1 rehabilitation agreement then the tax credit allowed under the
2 program shall be recaptured in accordance with the rules adopted
3 pursuant to subsection a. of this section.

4 c. In the case of a business entity that has chosen a selected
5 rehabilitation period of 60 months, if the architectural plans change
6 in the course of the phased rehabilitation project so that the
7 rehabilitation of the qualified property or transformative project
8 would, upon the rehabilitation's completion, no longer qualify for a
9 tax credit pursuant to the requirements of sections 2 through 8 of
10 P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), then the
11 **business entity's tax liability for that accounting or privilege**
12 **period shall be increased by the full amount of the tax credit that the**
13 **authority had previously granted upon the completion of a distinct**
14 **prior project phase that the business entity has applied against its**
15 **tax liability in a prior accounting or privilege period** tax credits
16 issued shall be subject to recapture. Any portion of the tax credit
17 that the business entity has not yet used at the time of the
18 disallowance by the officer shall be deemed void.
19 (cf: P.L.2020, c.156, s.7)

20

21 5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to
22 read as follows:

23 10. As used in sections 9 through 19 of P.L.2020, c.156
24 (C.34:1B-277 through C.34:1B-287):

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

27 "Board" means the Board of the New Jersey Economic
28 Development Authority, established pursuant to section 4 of
29 P.L.1974, c.80 (C.34:1B-4).

30 "Brownfield site" means any **former or current commercial or**
31 **industrial site** real property in this State that is currently vacant or
32 underutilized and on which there has been, or there is suspected to
33 have been, a discharge of a contaminant or on which there is
34 contaminated building material.

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

45 "Contaminated building material" means components of a
46 structure where abatement or removal of asbestos, or remediation of
47 materials containing hazardous substances defined pursuant to

1 section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by
2 applicable federal, state, or local rules or regulations.

3 "Contamination" or "contaminant" means any discharged
4 hazardous substance as defined pursuant to section 3 of P.L.1976,
5 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to
6 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined
7 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or
8 contaminated building material.

9 "Department" means the Department of Environmental
10 Protection.

11 "Developer" means any person that enters or proposes to enter
12 into a redevelopment agreement with the authority pursuant to the
13 provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

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

16 "Equity" means developer-contributed capital that may consist of
17 cash, costs for project feasibility incurred within the 12 months
18 prior to application, property value less any mortgages when the
19 developer owns the project site, and any other investment by the
20 developer in the project that the authority deems acceptable.
21 Property value shall be an amount equal to the lesser of: (1) the
22 purchase price, provided the property was purchased pursuant to an
23 arm's length transaction within 12 months of application; or (2) the
24 value as determined by a current appraisal acceptable to the
25 authority. "Equity" includes federal or local grants and proceeds
26 from the sale of federal or local tax credits, including, but not
27 limited to, any federal tax credits that the redevelopment receives
28 pursuant to section 42 of the federal Internal Revenue Code of 1986
29 (26 U.S.C. s.42) and section 45D of the federal Internal Revenue
30 Code of 1986 (26 U.S.C. s.45D). "Equity" shall not include State
31 grants or tax credits or proceeds from redevelopment area bonds.
32 For a residential project utilizing low income tax credits awarded by
33 the New Jersey Housing and Mortgage Financing Agency pursuant
34 to section 19 of P.L.2008, c.46 (C.52:27D-321.1), "equity" includes
35 the portion of the developer's fee that is deferred for a minimum of
36 five years.

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

1 land area of the municipality, which is dedicated as a national
2 natural landmark.

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

28 "Licensed site remediation professional" means an individual
29 who is licensed by the Site Remediation Professional Licensing
30 Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the
31 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

32 "Program" means the Brownfields Redevelopment Incentive
33 Program established by section 11 of P.L.2020, c.156 (C.34:1B-
34 279).

35 "Project financing gap" means the part of the total remediation
36 cost, including reasonable and appropriate return on investment,
37 that remains to be financed after all other sources of capital have
38 been accounted for, including, but not limited to, developer
39 contributed capital, which shall not be less than 20 percent of the
40 total remediation cost, and investor or financial entity capital or
41 loans for which the developer, after making all good faith efforts to
42 raise additional capital, certifies that additional capital cannot be
43 raised from other sources; provided, however, that for a
44 redevelopment project located in a government-restricted
45 municipality, the developer contributed capital shall not be less than
46 10 percent of the cost of rehabilitation. When an applicant is
47 proposing a new project, the project financing gap shall consider
48 the cost of the full project, but the award size shall be based on

1 remediation costs. Developer contributed capital may consist of
2 cash, deferred development fees, costs for project feasibility
3 incurred within the 12 months prior to application, property value
4 less any mortgages when the developer owns the project site, and
5 any other investment by the developer in the project deemed
6 acceptable by the authority, as provided by regulations promulgated
7 by the authority. Property value shall be valued at the lesser of
8 either: a. the purchase price, provided the property was purchased
9 pursuant to an arm's length transaction within 12 months of
10 application; or b. the value as determined by a current appraisal.

11 "Qualified incentive tract" means: a. a population census tract
12 having a poverty rate of 20 percent or more; or b. a census tract in
13 which the median family income for the census tract does not
14 exceed 80 percent of the greater of the Statewide median family
15 income or the median family income of the metropolitan statistical
16 area in which the census tract is situated.

17 "Redevelopment agreement" means an agreement between the
18 authority and a developer under which the developer agrees to
19 perform any work or undertaking necessary for the remediation of a
20 brownfield site located at the site of the redevelopment project[,
21 and for the clearance, development or redevelopment, construction,
22 reconstruction, or rehabilitation of any structure or improvement of
23 commercial, industrial, or public structures or improvements within
24 an area of land whereon a brownfield site is located].

25 "Redevelopment project" means a specific [construction]
26 remediation project [or improvement] undertaken, pursuant to the
27 terms of a redevelopment agreement, by a developer within an area
28 of land whereon a brownfield site is located. [A redevelopment
29 project may involve construction or improvement upon lands,
30 buildings, improvements, or real and personal property, or any
31 interest therein, including lands under water, riparian rights, space
32 rights, and air rights, acquired, owned, developed or redeveloped,
33 constructed, reconstructed, rehabilitated, or improved.]

34 "Remediation" or "remediate" means all necessary actions to
35 investigate and clean up or respond to any known, suspected, or
36 threatened discharge of contaminants, including, as necessary, the
37 preliminary assessment, site investigation, remedial investigation,
38 and remedial action, or any portion thereof, as those terms are
39 defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and
40 hazardous materials abatement; hazardous materials or waste
41 disposal; building and structural remedial activities, including, but
42 not limited to, demolition, asbestos abatement, polychlorinated
43 biphenyl removal, improvement and capping of landfills,
44 contaminated wood or paint removal, or other infrastructure
45 remedial activities; provided, however, "remediation" or
46 "remediate" shall not include the payment of compensation for
47 damage to, or loss of, natural resources.

1 "Remediation costs" means all reasonable costs associated with
2 the remediation of a contaminated site, except any costs incurred in
3 financing the remediation.
4 (cf: P.L.2021, c.160, s.5)

5
6 6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to
7 read as follows:

8 12. a. A developer seeking a tax credit for a redevelopment
9 project shall submit an application to the authority and the
10 department in a form and manner prescribed in regulations adopted
11 by the authority, in consultation with the department, pursuant to
12 the provisions of the "Administrative Procedure Act," P.L.1968,
13 c.410 (C.52:14B-1 et seq.).

14 b. A redevelopment project shall be eligible for a tax credit
15 only if the developer demonstrates to the authority and the
16 department at the time of application that:

17 (1) except as ordered by a government official with jurisdiction
18 over the brownfield site or certified by a Licensed Site Remediation
19 Professional to correct or prevent the spread of a health, safety, or
20 other hazard, and as provided in subsection j. of this section, the
21 developer has not commenced any remediation or clean up at the
22 site of the redevelopment project, except for preliminary
23 assessments and investigations, prior to applying for a tax credit
24 pursuant to this section, but intends to remediate **[and redevelop]**
25 the site immediately upon approval of the tax credit;

26 (2) the redevelopment project is located on a brownfield site;

27 (3) without the tax credit, the redevelopment project is not
28 economically feasible;

29 (4) a project financing gap exists for projects located outside of
30 a government-restricted municipality that have a total remediation
31 cost of \$5,000,000 or greater;

32 (5) the developer **[has obtained and submitted]** shall obtain and
33 submit to the authority, before approval by the board, a letter
34 evidencing support for the redevelopment project from the
35 governing body of the municipality in which the redevelopment
36 project is located; and

37 (6) each worker employed to perform remediation, construction,
38 or building services work at the redevelopment project shall be paid
39 not less than the prevailing wage rate for the worker's craft or trade,
40 as determined by the Commissioner of Labor and Workforce
41 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).
42 The prevailing wage requirements shall apply for remediation or
43 construction work through the completion of the redevelopment
44 project, and the prevailing wage requirements shall apply for
45 building services work at the site of the redevelopment project for
46 10 years following completion of the redevelopment project. In the
47 event a redevelopment project, or the aggregate of all
48 redevelopment projects approved for an award under the program,

1 constitute a lease of more than 35 percent of a facility, the
2 prevailing wage requirements shall apply to the entire facility.

3 c. A redevelopment project that received a reimbursement
4 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
5 through 58:10B-31) shall not be eligible to apply for a tax credit
6 under the program. If the authority receives an application and
7 supporting documentation for approval of a reimbursement pursuant
8 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
9 58:10B-31) prior to the effective date of sections 9 through 19 of
10 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the
11 authority may consider the application and award a tax credit to a
12 developer, provided that the authority shall take final action on all
13 applications for approval of a reimbursement pursuant to sections
14 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)
15 no later than July 1, 2019. No applications shall be submitted
16 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
17 through 58:10B-31) after the effective date of sections 9 through 19
18 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

19 d. (1) Prior to approval of an application, the authority shall
20 confirm with the Department of Labor and Workforce
21 Development, the Department of Environmental Protection, and the
22 Department of the Treasury whether the developer is in substantial
23 good standing with the respective department, or has entered into an
24 agreement with the respective department that includes a practical
25 corrective action plan for the developer. The authority may also
26 contract with an independent third party to perform a background
27 check on the developer. The developer shall certify that any
28 contractors or subcontractors that perform work at the
29 redevelopment project: (a) are registered as required by "The Public
30 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
31 56.48 et seq.); (b) have not been debarred by the Department of
32 Labor and Workforce Development from engaging in or bidding on
33 Public Works Contracts in New Jersey, and (c) possess a tax
34 clearance certificate issued by the Division of Taxation in the
35 Department of the Treasury. Provided that the developer is in
36 substantial good standing with the Department of Labor and
37 Workforce Development, the Department of Environmental
38 Protection, and the Department of the Treasury, or has entered into
39 such an agreement, and following approval of an application by the
40 board, the authority shall enter into a redevelopment agreement
41 with the developer, as provided for in section 13 of P.L.2020, c.156
42 (C.34:1B-281).

43 (2) The authority, in consultation with the department, may
44 impose additional requirements upon an applicant through rule or
45 regulation adopted pursuant to the provisions of the "Administrative
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the
47 authority or the department determines the additional requirements
48 to be necessary and appropriate to effectuate the purposes of

1 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
2 C.34:1B-287).

3 e. The authority, in consultation with the department, shall
4 conduct a review of the applications on a rolling basis, unless the
5 authority determines that demand is likely to exceed available tax
6 credits, and then through a competitive application process whereby
7 the authority and the department shall evaluate all applications
8 submitted by a date certain, as if all received applications were
9 submitted on that date. To receive a tax credit award, a developer's
10 application shall meet a minimum score, as determined by the
11 authority. In addition to the eligibility criteria set forth in
12 subsection b. of this section, the authority, in consultation with the
13 department, may consider additional factors that may include, but
14 shall not be limited to: the economic feasibility of the
15 redevelopment project; the benefit of the redevelopment project to
16 the community in which the remediation project is located; the
17 degree to which the redevelopment project enhances and promotes
18 **[job creation and]** economic development and reduces
19 environmental or public health stressors in an overburdened
20 community, as those terms are defined by section 2 of P.L.2020,
21 c.92 (C.13:1D-158), and attendant department regulations; and, if
22 the developer has a board of directors, the extent to which that
23 board of directors is diverse and representative of the community in
24 which the redevelopment project is located. The authority, in
25 consultation with the department, shall submit applications that
26 comply with the eligibility criteria set forth in this section, fulfill
27 the additional factors considered by the authority pursuant to this
28 subsection, satisfy the submission requirements, and provide
29 adequate information for the subject application, to the board for
30 final approval.

31 f. The authority shall award tax credits to redevelopment
32 projects until either the available tax credits are exhausted or all
33 redevelopment projects that are eligible for a tax credit pursuant to
34 the provisions of sections 9 through 19 of P.L.2020, c.156
35 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever
36 occurs first. If insufficient funding exists to allow a tax credit to a
37 developer in accordance with the provisions of subsection a. of
38 section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may
39 offer the developer a value of the tax credit below the amount
40 provided for in subsection a. of section 16 of P.L.2020, c.156
41 (C.34:1B-284).

42 g. A developer shall pay to the authority or to the department,
43 as appropriate, the full amount of the direct costs of an analysis
44 concerning the developer's application for a tax credit, which a third
45 party retained by the authority or department performs, if the
46 authority or department deems such retention to be necessary.

1 h. If the authority determines that a developer made a material
2 misrepresentation on the developer's application, the developer shall
3 forfeit all tax credits awarded under the program.

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

9 j. A developer who has commenced remediation or clean up at
10 the site and who could not reasonably have known the full extent of
11 the site contamination prior to commencing the remediation may
12 still apply for a tax credit under the program, if the developer
13 certifies to the authority, under the penalty of perjury, that the
14 developer cannot reasonably finish the remediation and commence
15 the redevelopment project absent the tax credit.

16 (cf: P.L.2021, c.160, s.6)

17
18 7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to
19 read as follows:

20 13. a. Following approval of an application by the board, but
21 prior to the start of any remediation or clean up at the site of the
22 redevelopment project, except activities disclosed at the time of
23 approval or those in accordance with section 12 of P.L.2020, c.156
24 (C.34:1B-280), the authority shall enter into a redevelopment
25 agreement with the developer. The chief executive officer of the
26 authority shall negotiate the terms and conditions of the
27 redevelopment agreement on behalf of the State.

28 b. The redevelopment agreement shall specify the amount of
29 the tax credit to be awarded to the developer, the date on which the
30 developer shall complete the remediation, and the projected project
31 remediation cost. The redevelopment agreement shall require the
32 developer to submit progress reports to the authority and to the
33 department every six months pursuant to section 15 of P.L.2020,
34 c.156 (C.34:1B-283).

35 c. The authority shall not enter into a redevelopment agreement
36 with a developer unless:

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

44 (2) the redevelopment project complies with the authority's
45 affirmative action requirements, adopted pursuant to section 4 of
46 P.L.1979, c.303 (C.34:1B-5.4); and

47 (3) the developer pays each worker employed to perform
48 remediation work, construction work, or building services work at

1 the redevelopment project not less than the prevailing wage rate in
2 accordance with the requirements of paragraph (6) of subsection b.
3 of section 12 of P.L.2020, c.156 (C.34:1B-280) for the worker's
4 craft or trade, as determined by the Commissioner of Labor and
5 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
6 56.25 et seq.).

7 d. The authority shall not enter into a redevelopment agreement
8 unless the developer demonstrates, to the satisfaction of the
9 Department of Environmental Protection, that the developer did not
10 discharge a hazardous substance at the brownfield site proposed to
11 be in the redevelopment agreement, is not in any way responsible
12 for the hazardous substance, and is not a corporate successor to the
13 discharger or to any person in any way responsible for the
14 hazardous substance or to anyone liable for cleanup and removal
15 costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

16 e. (1) Except as provided in paragraph (2) of this subsection,
17 the authority shall not enter into a redevelopment agreement for a
18 redevelopment project that includes at least one retail establishment
19 that will have more than 10 employees, or at least one distribution
20 center that will have more than 20 employees, unless the
21 redevelopment agreement includes a precondition that any business
22 that serves as the owner or operator of the retail establishment or
23 distribution center enters into a labor harmony agreement with a
24 labor organization or cooperating labor organizations which
25 represent retail or distribution center employees in the State.

26 (2) A labor harmony agreement shall be required only if the
27 State has a proprietary interest in the redevelopment project and
28 shall remain in effect for as long as the State acts as a market
29 participant in the redevelopment project. The authority may enter
30 into a redevelopment agreement with a developer without the labor
31 harmony agreement required under paragraph (1) of this subsection
32 only if the authority determines that the redevelopment project
33 would not be feasible if a labor harmony agreement is required.
34 The authority shall support the determination by a written finding,
35 which provides the specific basis for the determination.

36 (3) [As used in this subsection, "labor harmony agreement"
37 means an agreement between a business that serves as the owner or
38 operator of a retail establishment or distribution center and one or
39 more labor organizations, which requires, for the duration of the
40 agreement: that any participating labor organization and its
41 members agree to refrain from picketing, work stoppages, boycotts,
42 or other economic interference against the business; and that the
43 business agrees to maintain a neutral posture with respect to efforts
44 of any participating labor organization to represent employees at an
45 establishment or other unit in the retail establishment or distribution
46 center, agrees to permit the labor organization to have access to the
47 employees, and agrees to guarantee to the labor organization the
48 right to obtain recognition as the exclusive collective bargaining

1 representatives of the employees in an establishment or unit at the
2 retail establishment or distribution center by demonstrating to the
3 New Jersey State Board of Mediation, Division of Private
4 Employment Dispute Settlement, or a mutually agreed-upon,
5 neutral, third-party, that a majority of workers in the unit have
6 shown their preference for the labor organization to be their
7 representative by signing authorization cards indicating that
8 preference. The labor organization or organizations shall be from a
9 list of labor organizations that have requested to be on the list and
10 that the Commissioner of Labor and Workforce Development has
11 determined represent substantial numbers of retail or distribution
12 center employees in the State.】 (Deleted by amendment,
13 P.L. , c.) (pending before the Legislature as this bill)

14 f. The redevelopment agreement shall provide that issuance of
15 a tax credit under the program shall be conditioned upon the
16 subrogation to the department of all rights of the developer to
17 recover remediation costs from any other person who discharges a
18 hazardous substance or is in any way responsible, pursuant to
19 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous
20 substance that was discharged at the brownfield site.

21 g. A developer may seek a revision to the redevelopment
22 agreement if the developer cannot complete the remediation on or
23 before the date set forth in the redevelopment agreement. A
24 developer's ability to change the date on which the developer shall
25 complete the remediation shall be subject to the availability of tax
26 credits in the year of the revised date of completion.

27 h. A developer shall submit to the authority satisfactory
28 evidence of the actual remediation costs, as certified by a certified
29 public accountant, and a Licensed Site Remediation Professional for
30 costs under the jurisdiction of the "Site Remediation Reform Act,"
31 sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as
32 applicable, other appropriate licensed or certified professional for
33 costs that are not under the jurisdiction of the "Site Remediation
34 Reform Act," evidence of completion of the remediation as
35 demonstrated by a Response Action Outcome where the
36 remediation is subject to the "Site Remediation Reform Act," a
37 certification from the appropriate licensed or certified professional
38 for other remedial activities, and a certification that all information
39 provided by the developer to the authority is true, including
40 information contained in the application, the redevelopment
41 agreement, any amendment to the redevelopment agreement, and
42 any other information submitted by the developer to the authority
43 pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277
44 through C.34:1B-287). The developer, or an authorized agent of the
45 developer, shall certify under the penalty of perjury that the
46 information provided pursuant to this subsection is true.

47 i. The redevelopment agreement shall include a provision
48 allowing the authority to recapture the tax credits for any year in

1 which the Department of Environmental Protection, the Department
2 of Labor and Workforce Development, or the Department of the
3 Treasury that advises the authority that the developer is not in
4 substantial good standing with the respective department, nor has
5 the developer entered into an agreement with the respective
6 department that includes a practical corrective action plan for the
7 developer. The redevelopment agreement shall also include a
8 provision allowing the authority to recapture the tax credits for any
9 year in which the developer fails to confirm that each contractor or
10 subcontractor performing work at the redevelopment project: (1) is
11 registered as required by "The Public Works Contractor
12 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
13 not been debarred by the Department of Labor and Workforce
14 Development from engaging in or bidding on Public Works
15 Contracts in New Jersey; and (3) possesses a tax clearance
16 certificate issued by the Division of Taxation in the Department of
17 the Treasury. **【The redevelopment agreement shall also require a**
18 **developer to engage in on-site consultations with the Division of**
19 **Workplace Safety and Health in the Department of Health.】**
20 (cf: P.L.2021, c.160, s.7)

21

22 8. Section 14 of P.L.2020, c.156 (C.34:1B-282) is amended to
23 read as follows:

24 14. **【To】** In addition to the submission of any additional
25 evidence that the authority may request to verify that activities
26 comply with local, state, and federal regulations, to qualify for a tax
27 credit under the program, a developer shall, as applicable:

28 a. enter into **【a memorandum of agreement】** an administrative
29 consent order or other oversight document with the Commissioner
30 of Environmental Protection in accordance with the provisions of
31 section 37 of P.L.1997, c.278 (C.58:10B-29); **【or】**

32 b. comply with the requirements set forth in subsection b. of
33 section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of
34 the site of the redevelopment project; or

35 c. comply with the rules, regulations, and guidelines by the
36 federal government, the New Jersey Department of Labor and
37 Workforce Development, the New Jersey Department of Health,
38 and the New Jersey Department of Community Affairs regarding
39 requirements for remediation of asbestos, contaminated paint,
40 polychlorinated biphenyls, and other environmental hazards.

41 (cf: P.L.2020, c.156, s.14)

42

43 9. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to
44 read as follows:

45 16. a. Upon completion of the remediation, the developer shall
46 seek certification from the authority, in consultation with the
47 department, that:

1 (1) the remediation is complete;

2 (2) the developer complied with the requirements of section 14
3 of P.L.2020, c.156 (C.34:1B-282), as applicable, and section 15 of
4 P.L.2020, c.156 (C.34:1B-283)], including the requirements of any
5 memorandum of agreement or other oversight document that the
6 developer may have executed with the Commissioner of
7 Environmental Protection pursuant to that section]; and

8 (3) the remediation costs were actually and reasonably incurred.

9 Upon receipt of certification, and confirmation by the authority
10 that the developer's obligations under the redevelopment agreement
11 have been met, a developer shall be awarded a credit against the tax
12 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
13 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
14 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as
15 follows: (a) for project located in a qualified incentive tract or
16 government-restricted municipality, in an amount not to exceed
17 **[60]** 80 percent of the actual remediation costs, or **[60]** 80 percent
18 of the projected remediation costs as set forth in the redevelopment
19 agreement, or **[\$8,000,000]** \$12,000,000, whichever is least; **[and]**
20 (b) for a project erecting a solar panel array on the site of a closed
21 sanitary landfill, in an amount not to exceed 100 percent of the
22 costs of remediation and capping of the landfill, or \$12,000,000 if
23 the project is located in a qualified incentive tract or government-
24 restricted municipality, or \$8,000,000 if the project is located
25 anywhere else in the State, whichever is least; and (c) for all other
26 projects, in an amount not to exceed **[50]** 60 percent of the actual
27 remediation costs, or **[50]** 60 percent of the projected remediation
28 costs as set forth in the redevelopment agreement, or **[\$4,000,000]**
29 \$8,000,000, whichever is least. The developer, or an authorized
30 agent of the developer, shall certify that the information provided to
31 the department and the authority pursuant to this subsection is true
32 under the penalty of perjury.

33 b. When filing an application for certification pursuant to
34 subsection a. of this section, the developer shall submit to the
35 department and the authority: (1) the total remediation costs
36 incurred by the developer for the remediation of the subject
37 property located at the site of the redevelopment project, as
38 provided in the redevelopment agreement, and certified by a
39 certified public accountant, and a Licensed Site Remediation
40 Professional for costs under the jurisdiction of the "Site
41 Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60
42 (C.58:10C-1 et seq.), and as applicable, other appropriate licensed
43 or certified professional for costs that are not under the jurisdiction
44 of the "Site Remediation Reform Act"; (2) evidence of completion
45 of the remediation, as demonstrated by a Response Action Outcome
46 where the remediation is subject to the "Site Remediation Reform
47 Act"; (3) a certification from the appropriate licensed or certified

1 professional for other remedial activities; (4) as applicable,
2 information concerning the occupancy rate of **the** any buildings
3 or other work areas located on the property subject to the
4 redevelopment agreement; and (5) such other information as the
5 department deems necessary in order to make the certifications and
6 findings pursuant to this section.

7 c. A developer shall apply the credit awarded against the
8 developer's liability for the tax imposed pursuant to section 5 of
9 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
10 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
11 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during
12 which the **department** director awards the developer a tax credit
13 pursuant to subsection a. of this section. A developer shall not
14 carry forward any unused credit.

15 d. The director shall prescribe the order of priority of the
16 application of the credit awarded under this section and any other
17 credits allowed by law against the tax imposed under section 5 of
18 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
19 under this section against the tax imposed pursuant to section 5 of
20 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
21 any other credits allowed by law, shall not reduce the tax liability to
22 an amount less than the statutory minimum provided in subsection
23 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

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

25

26 10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to
27 read as follows:

28 19. a. 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, in consultation
31 with the Commissioner of Environmental Protection, may adopt,
32 immediately upon filing with the Office of Administrative Law,
33 regulations that the chief executive officer and commissioner deem
34 necessary to implement the provisions of sections 9 through 19 of
35 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which
36 regulations shall be effective for a period not to exceed 360 days
37 from the date of the filing. The chief executive officer, in
38 consultation with the Commissioner of Environmental Protection,
39 shall thereafter amend, adopt, or readopt the regulations in
40 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
41 et seq.). The rules shall require annual reporting by developers that
42 receive tax credits pursuant to the program, in addition to the
43 regular progress updates. As part of the authority's review of the
44 annual reports required from a developer, the authority shall
45 confirm with the Department of Labor and Workforce
46 Development, the Department of Environmental Protection, and the
47 Department of the Treasury that the developer is in substantial good
48 standing with the respective department, or has entered into an

1 agreement with the respective department that includes a practical
2 corrective action plan, and the developer shall certify that any
3 contractors or subcontractors performing work at the redevelopment
4 project: a. are registered as required by "The Public Works
5 Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et
6 seq.); b. have not been debarred by the Department of Labor and
7 Workforce Development from engaging in or bidding on Public
8 Works Contracts in New Jersey; and c. possess a tax clearance
9 certificate issued by the Division of Taxation in the Department of
10 the Treasury. The rules and regulations adopted pursuant to this
11 section shall also include a provision to require that, in any year in
12 which the developer is not in substantial good standing with the
13 Department of Labor and Workforce Development, the Department
14 of Environmental Protection, or the Department of the Treasury, the
15 developer may forfeit all tax credits awarded in that year, and to
16 allow the authority to extend, in individual cases, the deadline for
17 any annual reporting requirement established pursuant to this
18 section.

19 b. Notwithstanding any provision of the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
21 contrary, the chief executive officer of the authority may adopt,
22 immediately upon filing with the Office of Administrative Law,
23 rules and regulations necessary to implement the provisions of
24 P.L. , c. (pending before the Legislature as this bill). The rules
25 and regulations adopted pursuant to this section shall be effective
26 for a period not to exceed 365 days following the date of filing and
27 may thereafter be amended, adopted, or readopted by the director in
28 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
29 et seq.).

30 (cf: P.L.2021, c.160, s.10)

31

32 11. This act shall take effect immediately, except that: sections
33 2 and 3 shall apply retroactively to unapproved applications
34 pending before December 1, 2023; sections 1 and 4 shall take effect
35 upon adoption of the rules in accordance with section 3 and shall
36 apply to applications received by the authority after such date; and
37 sections 5 through 9 shall take effect upon adoption of the rules in
38 accordance with section 10 and shall apply to applications received
39 by the authority after such date.

40

41

42

STATEMENT

43

44 This bill revises various provisions of the "New Jersey Economic
45 Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.)
46 concerning the Historic Property Reinvestment Program and the
47 Brownfields Redevelopment Incentive Program.

1 *The Historic Property Reinvestment Program*

2 The bill revises the amount of credits that may be awarded to
3 eligible business entities under the program. Specifically, the bill
4 increases the maximum size of tax credits awarded under the
5 program and allows for certain facade rehabilitation projects to be
6 eligible for a tax credit award.

7 Under the bill, the credits awarded for the rehabilitation of a
8 qualified property located in a qualified incentive tract or
9 government-restricted municipality are increased to 60 percent of
10 the cost of rehabilitation or \$12 million, whichever is less. Under
11 current law, these credit amounts are equal to 45 percent of the cost
12 of rehabilitation or \$8 million, whichever is less. The credits
13 awarded for the rehabilitation of any other qualified property, other
14 than a transformative project, are also increased to 50 percent of the
15 cost of rehabilitation or \$8 million, whichever is less. Under
16 current law, these credit amounts are equal to 40 percent of the cost
17 of rehabilitation or \$4 million, whichever is less. The bill also
18 revises the tax credit eligibility requirement for a business to
19 demonstrate a project financing gap to apply only to projects
20 located outside of a government-restricted municipality that have a
21 total rehabilitation cost or total façade rehabilitation cost of at least
22 \$5 million.

23 The bill provides the Economic Development Authority (EDA)
24 with the discretion to make up to 50 percent of the tax credits
25 available for distribution in a given year to be made available for
26 facade rehabilitation projects. The value of tax credits awarded to a
27 facade rehabilitation project are 50 percent of the project's cost of
28 façade rehabilitation, up to a maximum of \$4 million. The bill
29 defines "facade rehabilitation projects" to mean a project consisting
30 of the repair or reconstruction of exterior building features,
31 including but not limited to structural components embedded within
32 exterior walls, masonry units and mortar, exterior siding fabric,
33 doors, windows, exterior lighting fixtures, and decorative
34 components, such as metalwork, terracotta units and cast stone
35 which constitute the facades of a qualified property or
36 transformative property.

37

38 *The Brownfields Redevelopment Incentive Program*

39 The bill revises various provisions relating to the application
40 process for a developer and, following authority approval of the
41 application, the subsequent redevelopment agreement between a
42 developer and the authority. The bill also provides that the EDA
43 would accept applications on a rolling basis, unless the EDA
44 determines that the demand for tax credits is likely to exceed the
45 availability of credits, in which case applications would be
46 reviewed on a competitive basis and submitted before a date certain.

47 Under the bill, the value of credits awarded for the remediation
48 of a redevelopment project located in a qualified incentive tract or

1 government-restricted municipality is increased to up to 80 percent
2 of the actual remediation costs, 80 percent of the projected
3 remediation costs set forth in the redevelopment agreement, or \$12
4 million, whichever is less. Under current law, these credit amounts
5 are equal to 60 percent of the actual remediation costs, 60 percent
6 of the projected remediation costs set forth in the redevelopment
7 agreement, or \$8 million, whichever is less.

8 The bill specifies the amount of tax credits that may be awarded
9 for a redevelopment project erecting a solar panel array on the site
10 of a closed sanitary landfill. If the project is located in a qualified
11 incentive tract or a government-restricted municipality, the value of
12 the tax credit would be in an amount equal to 100 percent of the
13 costs of remediation or \$12 million, whichever is less. If the
14 project is located anywhere else in the State, the value of tax credit
15 would be in an amount equal to 100 percent of the costs of
16 remediation or \$8 million, whichever is less.

17 Under the bill, the value of credits awarded for the remediation
18 of all other redevelopment projects is increased to up to 60 percent
19 of the actual remediation costs, 60 percent of the projected
20 remediation costs set forth in the redevelopment agreement, or \$8
21 million, whichever is less. Under current law, these credit amounts
22 are equal to 50 percent of the actual remediation costs, 50 percent
23 of the projected remediation costs set forth in the redevelopment
24 agreement, or \$4 million, whichever is less.