

**ASSEMBLY, No. 4834**

---

**STATE OF NEW JERSEY**

**216th LEGISLATURE**

---

INTRODUCED DECEMBER 3, 2015

**Sponsored by:**

**Assemblyman JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen and Passaic)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblywoman GAIL PHOEBUS**

**District 24 (Morris, Sussex and Warren)**

**Co-Sponsored by:**

**Assemblyman A.M.Bucco**

**SYNOPSIS**

Allows businesses due to receive grant under Business Employment Incentive Program to receive tax credit instead of grant.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/11/2015)**

1 AN ACT authorizing certain tax credits under the Business  
2 Employment Incentive Program and amending P.L.1996, c.26.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 2 of P.L.1996, c.26 (C.34:1B-125) is amended to  
8 read as follows:

9 2. As used in sections 1 through 17 of P.L.1996,  
10 c.26 (C.34:1B-124 et seq.) and in sections 9 through 11 of  
11 P.L.2003, c.166 (C.34:1B-139.1 through C.34:1B-139.3), unless a  
12 different meaning clearly appears from the context:

13 "Advanced computing" means a technology used in the  
14 designing and developing of computing hardware and software,  
15 including innovations in designing the full spectrum of hardware  
16 from hand-held calculators to super computers, and peripheral  
17 equipment **【;】**.

18 "Advanced computing company" means a person, whose  
19 headquarters or base of operations is located in New Jersey,  
20 engaged in the research, development, production, or provision of  
21 advanced computing for the purpose of developing or providing  
22 products or processes for specific commercial or public purposes  
23 **【;】**.

24 "Advanced materials" means materials with engineered  
25 properties created through the development of specialized  
26 processing and synthesis technology, including ceramics, high  
27 value-added metals, electronic materials, composites, polymers, and  
28 biomaterials **【;】**.

29 "Advanced materials company" means a person, whose  
30 headquarters or base of operations is located in New Jersey,  
31 engaged in the research, development, production, or provision of  
32 advanced materials for the purpose of developing or providing  
33 products or processes for specific commercial or public purposes  
34 **【;】**.

35 "Application year" means the grant year for which an eligible  
36 partnership submits the information required under section 8 of  
37 P.L.1996, c.26 (C.34:1B-131);

38 "Authority" means the New Jersey Economic Development  
39 Authority created pursuant to section 4 of P.L.1974,  
40 c.80 **【(C.34:1B-1 et seq.);】** (C.34:1B-4).

41 "Base years" means the first two complete calendar years  
42 following the effective date of an agreement **【;】**.

43 "Biotechnology" means the continually expanding body of  
44 fundamental knowledge about the functioning of biological systems  
45 from the macro level to the molecular and sub-atomic levels, as  
46 well as novel products, services, technologies, and sub-technologies

**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 developed as a result of insights gained from research advances  
2 which add to that body of fundamental knowledge [;].

3 "Biotechnology company" means a person, whose headquarters  
4 or base of operations is located in New Jersey, engaged in the  
5 research, development, production, or provision of biotechnology  
6 for the purpose of developing or providing products or processes for  
7 specific commercial or public purposes, including but not limited  
8 to, medical, pharmaceutical, nutritional, and other health-related  
9 purposes, agricultural purposes, and environmental purposes, or a  
10 person, whose headquarters or base of operations is located in New  
11 Jersey, engaged in providing services or products necessary for  
12 such research, development, production, or provision [;].

13 "Bonds means bonds, notes, or other obligations issued by the  
14 authority pursuant to [this act;] P.L.1996, c.26 (C.34:1B-124 et  
15 seq.).

16 "Business" means a corporation; sole proprietorship; partnership;  
17 corporation that has made an election under Subchapter S of  
18 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or  
19 any other business entity through which income flows as a  
20 distributive share to its owners; limited liability company; nonprofit  
21 corporation; or any other form of business organization located  
22 either within or outside this State. A grant received under [this act]  
23 P.L.1996, c.26 (C.34:1B-124 et seq.) by a partnership, Subchapter  
24 S-Corporation, or other [such] business entity shall be apportioned  
25 among the persons to whom the income or profit of the partnership,  
26 Subchapter S-Corporation, or other entity is distributed, in the same  
27 proportions as those in which the income or profit is distributed [;].

28 "Business employment incentive agreement" or "agreement"  
29 means the written agreement between the authority and a business  
30 proposing a project in this State in accordance with the provisions  
31 of [this act] P.L.1996, c.26 (C.34:1B-124 et seq.) which establishes  
32 the terms and conditions of a grant to be awarded pursuant to [this  
33 act;] P.L.1996, c.26 (C.34:1B-124 et seq.).

34 ["Department" means the New Jersey Commerce and Economic  
35 Growth Commission;]

36 "Designated industry" means a business engaged in the field of  
37 biotechnology, pharmaceuticals, financial services [or],  
38 transportation and logistics, advanced computing, advanced  
39 materials, electronic device technology, environmental technology,  
40 or medical device technology [;].

41 "Director" means the Director of the Division of Taxation [;].

42 "Division" means the Division of Taxation in the Department of  
43 the Treasury [;].

44 "Electronic device technology" means a technology involving  
45 microelectronics, semiconductors, electronic equipment, and  
46 instrumentation, radio frequency, microwave, and millimeter

1 electronics, and optical and optic-electrical devices, or data and  
2 digital communications and imaging devices **[:]**.

3 "Electronic device technology company" means a person, whose  
4 headquarters or base of operations is located in New Jersey,  
5 engaged in the research, development, production, or provision of  
6 electronic device technology for the purpose of developing or  
7 providing products or processes for specific commercial or public  
8 purposes **[:]**.

9 "Eligible partnership" means a partnership or limited liability  
10 company that is qualified to receive a grant as established in **[this**  
11 **act;]** P.L.1996, c.26 (C.34:1B-124 et seq.).

12 "Eligible position" is a new full-time position created by a  
13 business in New Jersey or transferred from another state by the  
14 business under the terms and conditions set forth in **[this act]**  
15 P.L.1996, c.26 (C.34:1B-124 et seq.) during the base years or in  
16 subsequent years of a grant. In determining if positions are eligible  
17 positions, the authority shall give greater consideration to positions  
18 that average at least 1.5 times the minimum hourly wage during the  
19 term of an agreement authorized pursuant to **[this act]** P.L.1996,  
20 c.26 (C.34:1B-124 et seq.). For grants awarded on or after July 1,  
21 2003, eligible position includes only a position for which a business  
22 provides employee health benefits under a group health plan as  
23 defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health  
24 benefits plan as defined under section 1 of P.L.1992,  
25 c.162 (C.17B:27A-17), or a policy or contract of health insurance  
26 covering more than one person issued pursuant to Article 2 of Title  
27 17B of the New Jersey Statutes. **["Eligible]** An "eligible position"  
28 shall also **[includes]** include all current and future partners or  
29 members of a partnership or limited liability company created by a  
30 business in New Jersey or transferred from another state by the  
31 business pursuant to the conditions set forth in **[this act]** P.L.1996,  
32 c.26 (C.34:1B-124 et seq.) during the base years or in subsequent  
33 years of a grant. An "eligible position" shall also include a position  
34 occupied by a resident of this State whose position is relocated to  
35 this State from another state but who does not qualify as a "new  
36 employee" because prior to relocation **[his]** the resident's wages or  
37 **[his]** the resident's distributive share of income from a gain, from a  
38 loss or deduction, or **[his]** the resident's guaranteed payments or  
39 any combination thereof, prior to the relocation, were not subject to  
40 income taxes imposed by the state or municipality in which the  
41 position was previously located. An "eligible position" shall also  
42 include a position occupied by a resident of another State whose  
43 position is relocated to this State but whose income is not subject to  
44 the New Jersey gross income tax pursuant to the "New Jersey Gross  
45 Income Tax Act," N.J.S.54A:1-1 et seq. An "eligible position" shall  
46 not include any position located within New Jersey, which, within a  
47 period either three months prior to the business' application for a

1 grant under **[this act]** P.L.1996, c.26 (C.34:1B-124 et seq.) or six  
2 months after the date of application, ceases to exist or be located  
3 within New Jersey **[;]**.

4 "Employment incentive" means the amount of a grant, either in  
5 cash or in tax credits, determined pursuant to subsection a. of  
6 section 6 of **[this act;]** P.L.1996, c.26 (C.34:1B-129).

7 "Environmental technology" means assessment and prevention of  
8 threats or damage to human health or the environment,  
9 environmental cleanup, or the development of alternative energy  
10 sources **[;]**.

11 "Environmental technology company" means a person, whose  
12 headquarters or base of operations is located in New Jersey,  
13 engaged in the research, development, production, or provision of  
14 environmental technology for the purpose of developing or  
15 providing products or processes for specific commercial or public  
16 purposes **[;]**.

17 "Estimated tax" means an amount calculated for a partner in an  
18 eligible position equal to **[6.37%]** 6.37 percent of the lesser of  
19 **[(i)]**: a. the amount of the partner's net income from the eligible  
20 partnership that is sourced to New Jersey as reflected in Column B  
21 of the partner's Schedule NJK-1 of the application year less the  
22 amount of the partner's net income from the eligible partnership that  
23 is sourced to New Jersey as reflected in column B of the partner's  
24 Schedule NJK-1 in the foundation year **[;]** or **[(ii)]** b. the net of all  
25 items of partnership income upon which tax has been paid as  
26 reflected on the partner's New Jersey Gross Income Tax return in  
27 the application year **[;]**.

28 "Foundation year" means the year immediately prior to the  
29 creation of the eligible position **[;]**.

30 "Full-time employee" means a person who is employed for  
31 consideration for at least 35 hours a week, or who renders any other  
32 standard of service generally accepted by custom or practice as full-  
33 time employment, whose wages are subject to withholding as  
34 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
35 et seq., and who is determined by the authority to be employed in a  
36 permanent position according to criteria it develops, or who is a  
37 partner of an eligible partnership, who works for the partnership for  
38 at least 35 hours a week, or who renders any other standard of  
39 service generally accepted by custom or practice as full-time  
40 employment, and whose distributive share of income, gain, loss, or  
41 deduction, or whose guaranteed payments, or any combination  
42 thereof, is subject to the payment of estimated taxes, as provided in  
43 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.  
44 "Full-time employee" shall not include any person who works as an  
45 independent contractor or on a consulting basis for the business **[;]**.

46 "Grant" means a business employment incentive grant as  
47 established in **[this act;]** P.L.1996, c.26 (C.34:1B-124 et seq.).

1 "Medical device technology" means a technology involving any  
2 medical equipment or product ~~[(other), other than a pharmaceutical~~  
3 ~~[product)]~~ product, that has therapeutic value, diagnostic value, or  
4 both, and is regulated by the federal Food and Drug Administration  
5 ~~[:]~~.

6 "Medical device technology company" means a person, whose  
7 headquarters or base of operations is located in New Jersey,  
8 engaged in the research, development, production, or provision of  
9 medical device technology for the purpose of developing or  
10 providing products or processes for specific commercial or public  
11 purposes ~~[:]~~.

12 "Net income from the eligible partnership" means the net  
13 combination of a partner's distributive share of the eligible  
14 partnership's income, gain, loss, deduction, or guaranteed payments  
15 ~~[:]~~.

16 "New employee" means a full-time employee first employed in  
17 an eligible position on the project which is the subject of an  
18 agreement or who is a partner of an eligible partnership, who works  
19 for the partnership for at least 35 hours a week, or who renders any  
20 other standard of service generally accepted by custom or practice  
21 as full-time employment, and whose distributive share of income,  
22 gain, loss or deduction, or whose guaranteed payments, or any  
23 combination thereof, is subject to the payment of estimated taxes, as  
24 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
25 et seq.; except that ~~[such]~~ a New Jersey resident whose position is  
26 relocated to this State shall not be classified as a "new employee"  
27 unless ~~[his]~~ the employee's wages, or ~~[his]~~ the employee's  
28 distributive share of income from a gain, from a loss or deduction,  
29 or ~~[his]~~ the employee's guaranteed payments or any combination  
30 thereof, prior to the relocation, were subject to income taxes  
31 imposed by the state or municipality in which the position was  
32 previously located. "New employee" may also include an employee  
33 rehired or called back from a layoff during or following the base  
34 years to a vacant position previously held by that employee or to a  
35 new position established during or following the base years. "New  
36 employee" shall not include any employee who was previously  
37 employed in New Jersey by the business or by a related person as  
38 defined in section 2 of P.L.1993, c.170 (C.54:10A-5.5) if the  
39 employee is transferred to the business, which is the subject of an  
40 agreement, unless the employee's position at ~~[his]~~ the employee's  
41 previous employer is filled by a new employee. "New employee"  
42 also shall not include a child, grandchild, parent, or spouse of an  
43 individual associated with the business who has direct or indirect  
44 ownership of at least ~~[15%]~~ 15 percent of the profits, capital, or  
45 value of the business. New employee shall also include an  
46 employee whose position is relocated to this State but whose  
47 income is not subject to the New Jersey gross income tax pursuant

1 to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.  
2 **【;】**

3 "Partner" means a person who is entitled to either a distributive  
4 share of a partnership's income, gain, loss, or deduction, or  
5 guaranteed payments, or any combination thereof, by virtue of  
6 holding an interest in the partnership. "Partner" also includes a  
7 person who is a member of a limited liability company which is  
8 treated as a partnership, as provided in the "New Jersey Gross  
9 Income Tax Act," N.J.S.54A:1-1 et seq. **【;】**

10 "Refunding Bonds" means bonds, notes or other obligations  
11 issued to refinance bonds, notes or other obligations previously  
12 issued by the authority pursuant to the provision of **【this act;】**  
13 P.L.1996, c.26 (C.34:1B-124 et seq.).

14 "Residual withholdings" means for any period of time, the excess  
15 of the estimated cumulative withholdings for all executed  
16 agreements eligible for payments under **【this act】** P.L.1996,  
17 c.26 (C.34:1B-124 et seq.) over the cumulative anticipated grant  
18 amounts **【;】**.

19 "Schedule NJK-1" means Schedule NJK-1 as the form existed for  
20 taxable year 1997 **【;】**.

21 "Withholdings" means the amount withheld by a business from  
22 the wages of new employees or estimated taxes paid by, or on  
23 behalf of, partners that are new employees, or any combination  
24 thereof, pursuant to the "New Jersey Gross Income Tax Act,"  
25 N.J.S.54A:1-1 et seq., and, if the new employee is an employee  
26 whose position has moved to New Jersey but whose income is not  
27 subject to the New Jersey gross income tax pursuant to  
28 N.J.S.54A:1-1 et seq., the amount of withholding that would occur  
29 if the employee were to move to New Jersey.

30 (cf: P.L.2003, c.166, s.1)

31

32 2. Section 6 of P.L.1996, c.26 (C.34:1B-129) is amended to  
33 read as follows:

34 6. a. The amount of the employment incentive awarded as a  
35 grant **【in】** by the authority shall either be awarded in cash or as a  
36 tax credit. In each case, the amount of the grant shall be not less  
37 than **【10%】** 10 percent and not more than **【50%】** 50 percent of the  
38 withholdings of the business, or not less than **【10%】** 10 percent and  
39 not more than **【30%】** 30 percent of the estimated tax of the partners  
40 of an eligible partnership whether paid directly by the partner or by  
41 the eligible partnership on behalf of **【such】** the partner's account, or  
42 any combination thereof, and shall be subject to the provisions of  
43 sections 10 and 11 of **【this act】** P.L.1996, c.26 (C.34:1B-133 and  
44 C.34:1B-134). In no case shall the aggregate amount of the  
45 employment incentive grant awarded pursuant to a business  
46 employment incentive agreement entered into on or after July 1,  
47 2003 exceed an average of \$50,000 for all new employees over the

term of the grant. The employment incentive shall be based on criteria developed by the authority after considering the following:

- (1) The number of eligible positions to be created;
- (2) The expected duration of those positions;
- (3) The type of contribution the business can make to the long-term growth of the State's economy;
- (4) The amount of other financial assistance the business will receive from the State for the project;
- (5) The total dollar investment the business is making in the project;
- (6) Whether the business is a designated industry;
- (7) Impact of the business on State tax revenues; and
- (8) Such other related factors determined by the authority.

b. A business may be eligible to be awarded a grant, either in cash or in tax credits, of up to **80%** 80 percent of the withholdings of the business or up to **50%** 50 percent of the estimated tax of the partners of an eligible partnership if the grant promotes smart growth and the goals, strategies, and policies of the State Development and Redevelopment Plan, established pursuant to section 5 of P.L.1985, c.398 (C.52:18A-200), as determined by and based upon criteria promulgated by the authority following consultation with the **Department of Community Affairs,** Office of **Smart Growth** State Planning in the Department of State.

c. The term of the grant shall not exceed 10 years.

d. At the discretion of the authority, the grant may apply to new employees or partners in eligible positions created during the base years, and during the remainder of the term of the grant.

e. Within 180 days of the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), a business that was approved for a grant prior to the enactment of the P.L. , c. (C. ) (pending before the Legislature as this bill), may direct the authority to convert the grant to a tax credit against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The direction to convert the grant to a tax credit shall be irrevocable. An approved tax credit shall be issued in the manner and for the amounts as follows and may only be applied in the tax period for which they are issued and shall not be carried forward:

(1) For grants accrued but not paid during calendar years 2008 through 2013, the tax credit shall be equal to an approved amount and shall be issued in five installments over a five year period beginning in the 2017 tax accounting or privilege period of the business or tax credit transferee in the following percentages: in year one, 30 percent of the accrued amount; in year two, 30 percent of the accrued amount; in year three, 20 percent of the accrued amount; in year four, 10 percent of the accrued amount; in year



1 five, 10 percent of the accrued amount. To the extent any amount  
2 in this paragraph has not been approved by the authority by the  
3 commencement of State fiscal year 2017, the aggregate tax credit  
4 that would have been issued in State fiscal year 2017 shall be issued  
5 in the year the amount is approved and the five-year period shall  
6 commence in that fiscal year;

7 (2) For a grant accrued but not paid during calendar year 2014,  
8 the tax credit shall be equal to any approved amount and shall be  
9 issued in four equal installments over a four-year period beginning  
10 in the 2019 tax accounting or privilege period of the business or tax  
11 credit transferee;

12 (3) For a grant accrued but not paid during calendar year 2015,  
13 the tax credit shall be equal to any approved amount and shall be  
14 issued in four equal installments over a four-year period beginning  
15 in the 2019 tax accounting or privilege period of the business or tax  
16 credit transferee;

17 (4) For a grant accrued but not paid during calendar year 2016,  
18 the tax credit shall be equal to any approved amount and shall be  
19 issued in three equal installments over a three-year period  
20 beginning in the 2020 tax accounting or privilege period of the  
21 business or tax credit transferee;

22 (5) For a grant accrued but not paid during calendar year 2017,  
23 the tax credit shall be equal to any approved amount and shall be  
24 issued in three equal installments over a three-year period  
25 beginning in the 2020 tax accounting or privilege period of the  
26 business or tax credit transferee;

27 (6) For a grant accrued but not paid during calendar year 2018,  
28 the tax credit shall be equal to any approved amount and shall be  
29 issued in two equal installments over a two-year period beginning  
30 in the 2022 tax accounting or privilege period of the business or tax  
31 credit transferee;

32 (7) For a grant accrued but not paid during calendar year 2019,  
33 the tax credit shall be equal to any approved amount and shall be  
34 issued in two equal installments over a two-year period beginning  
35 in the 2022 tax accounting or privilege period of the business or tax  
36 credit transferee;

37 (8) For a grant accrued but not paid during calendar year 2020,  
38 the tax credit shall be equal to any approved amount and shall be  
39 issued in two equal installments over a two-year period beginning  
40 in the 2023 tax accounting or privilege period of the business or tax  
41 credit transferee;

42 (9) For a grant accrued but not paid during calendar year 2021,  
43 the tax credit shall be equal to any approved amount and shall be  
44 issued in two equal installments over a two-year period beginning  
45 in the 2023 tax accounting or privilege period of the business or tax  
46 credit transferee;

47 (10) For a grant accrued but not paid during calendar year 2022,  
48 the tax credit shall be equal to any approved amount and shall be

1 paid in two equal installments over a two-year period beginning in  
2 the 2023 tax accounting or privilege period of the business or tax  
3 credit transferee;

4 (11) For a grant accrued but not paid during calendar year 2023,  
5 the tax credit shall be equal to any approved amount and shall be  
6 issued in two equal installments over a two-year period beginning  
7 in the 2023 tax accounting or privilege period of the business or tax  
8 credit transferee;

9 (12) For a grant accrued but not paid during calendar year 2024,  
10 the tax credit shall be equal to any approved amount and shall be  
11 issued in the 2025 tax accounting or privilege period of the business  
12 or tax credit transferee; and

13 (13) For a grant accrued but not paid during calendar year 2025,  
14 the tax credit shall be equal to any approved amount and shall be  
15 issued in the 2025 tax accounting or privilege period of the business  
16 or tax credit transferee.

17 f. The amount of the credit allowed pursuant to this section  
18 shall be applied against the tax otherwise due under section 5 of  
19 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,  
20 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950,  
21 c.231 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and  
22 payments. If the credit exceeds the amount of tax liability  
23 otherwise due from a business that pays taxes under section 5 of  
24 P.L.1945, c.162 (C.54:10A-5), that amount of excess shall be an  
25 overpayment for the purposes of R.S.54:49-15, provided, however,  
26 that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

27 g. A business that does not pay taxes under section 5 of  
28 P.L.1945, c.162 (C.54:10A-5) sections 2 and 3 of P.L.1945,  
29 c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,  
30 c.231 (C.17:32-15), or N.J.S.17B:23-5 may apply to the executive  
31 director of the authority for a tax credit transfer certificate, covering  
32 one or more years. The tax credit transfer certificate, upon receipt  
33 thereof by the business from the director and the executive director  
34 of the authority, may be sold or assigned, in full or in part, in an  
35 amount not less than \$100,000, or the amount of the refundable tax  
36 credit issued if less than \$100,000, of tax credits to any other person  
37 that may have a tax liability pursuant to section 5 of P.L.1945,  
38 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-  
39 2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or  
40 N.J.S.17B:23-5. The tax credit transfer certificate provided to the  
41 business shall include a statement waiving the business's right to  
42 claim that amount of the credit against the taxes that the business  
43 has elected to sell or assign. The sale or assignment of any amount  
44 of a tax credit transfer certificate allowed under this section shall  
45 not be exchanged for consideration received by the business of less  
46 than 90 percent of the transferred credit amount before considering  
47 any further discounting to present value which shall be permitted.  
48 Any amount of a tax credit transfer certificate used by a purchaser

1 or assignee against a tax liability shall be subject to the same  
2 privileges, limitations, and conditions that apply to the use of the  
3 credit by the business that originally applied for and was allowed  
4 the tax credit, including treating the amount of excess as an  
5 overpayment under subsection f. of this section. The tax credit  
6 transferee may not transfer its tax credit to any other party.  
7 (cf: P.L.2003, c.166, s.4)

8  
9 3. Section 15 of P.L.1996, c.26 (C.34:1B-138) is amended to  
10 read as follows:

11 15. The **【New Jersey Commerce and Economic Growth**  
12 **Commission】** authority shall submit a report on the Business  
13 Employment Incentive Program to the Governor **【**, President of the  
14 Senate, and Speaker of the General Assembly**】** and, pursuant to  
15 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature on or  
16 before October 31 of each year. The report shall include  
17 information on the number of agreements entered into during the  
18 preceding fiscal year, a description of the project under each  
19 agreement, the number of jobs created, new income tax revenue  
20 received from withholdings, amounts awarded as grants and an  
21 update on the status of projects under agreement before the  
22 preceding fiscal year.

23 (cf: P.L.2003, c.166, s.8)

24  
25 4. This act shall take effect immediately and be operative as of  
26 January 1, 2016.

## 27 28 29 STATEMENT

30  
31 This bill allows a business that is eligible to receive a grant  
32 under the Business Employment Incentive Program (BEIP) to direct  
33 the New Jersey Economic Development Authority (authority) to  
34 convert the grant to a refundable tax credit against its corporate,  
35 gross income, or insurance premium tax liability in an amount equal  
36 to the credit payment schedule provided in the bill. The direction to  
37 convert the grant to a tax credit is to be irrevocable. Approved tax  
38 credits may only be applied in the tax period for which they are  
39 issued and are not to be carried forward. If the credit exceeds the  
40 amount of tax liability otherwise due from a business that pays  
41 corporate business taxes, the amount of excess is to be deemed an  
42 overpayment and the business is to receive a refund without interest  
43 due to it.

44 The bill allows a business that does not pay corporate business  
45 taxes to apply to the executive director of the authority for a tax  
46 credit transfer certificate, covering one or more years. The tax  
47 credit transfer certificate may be sold or assigned, in full or in part,  
48 in an amount not less than \$100,000, or the amount of the

1 refundable tax credit issued if less than \$100,000, of tax credits to  
2 any other person that may have a corporate, gross income, or  
3 insurance premium tax liability. The sale or assignment of any  
4 amount of a tax credit transfer certificate is not to be exchanged for  
5 consideration received by the business of less than 90 percent of the  
6 transferred credit amount before considering any further  
7 discounting to present value which is permitted. The tax credit  
8 transferee may not transfer its tax credit to any other party.