

CHAPTER 123

AN ACT concerning the Business Retention and Relocation Assistance Grant Program, amending P.L.1996, c.25 and P.L.2004, c.65, and repealing section 11 of P.L.1996, c.25.

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

1. Section 2 of P.L.1996, c.25 (C.34:1B-113) is amended to read as follows:

C.34:1B-113 Definitions relative to business retention and relocation assistance.

2. As used in this act:

“Affiliate” means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). An entity may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes;

“Authority” means the New Jersey Economic Development Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"Business retention or relocation grant of tax credits" or "grant of tax credits" means a grant which consists of the value of corporation business tax credits against the liability imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits against the taxes imposed on insurers pursuant to P.L.1945, c.132 (C.54:18A-1 et al.), section 1 of P.L.1950, c.231 (C.17:32-15), and N.J.S.17B:23-5, provided to fund a portion of retention and relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

"Business" means an employer located in this State that has operated continuously in the State, in whole or in part, in its current form or as a predecessor entity for at least 10 years prior to filing an application pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) and which is subject to the provisions of R.S.43:21-1 et seq. and may include a sole proprietorship, a partnership, or a corporation that has made an election under Subchapter S of Chapter One of Subtitle A of the Internal Revenue Code of 1986, or any other business entity through which income flows as a distributive share to its owners, limited liability company, nonprofit corporation, or any other form of business organization located either within or outside the State. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by an affiliate or based upon retained full-time jobs of an affiliate;

“Capital investment” means expenses that the business incurs following its submission of an application to the authority pursuant to section 5 of P.L.1996, c.25 (C.34:1B-116), but prior to the Capital Investment Completion Date, as shall be defined in the project agreement, for: (1) the site preparation and construction, renovation, improvement, equipping of, or obtaining and installing fixtures and machinery, apparatus or equipment in, a newly constructed, renovated or improved building, structure, facility, or improvement to real property in this State; and (2) obtaining and installing fixtures and machinery, apparatus or equipment in a building, structure, or facility in this State. Provided however, that "capital investment" shall not include soft costs such as financing and design, furniture or decorative items such as artwork or plants, or office equipment if the office equipment is property with a recovery period of less than five years. The recovery period of any property, for purposes

of this section, shall be determined as of the date such property is first placed in service or use in this State by the business, determined in accordance with section 168 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.168);

“Certificate of compliance” means a certificate issued by the authority pursuant to section 9 of P.L.1996, c.25 (C.34:1B-120);

“Chief executive officer” means the chief executive officer of the New Jersey Economic Development Authority;

"Commitment duration" means the tax credit term and five years from the end of the tax credit term specified in the project agreement entered into pursuant to section 5 of P.L.1996, c.25 (C.34:1B-116);

"Designated industry" means an industry identified by the authority as desirable for the State to maintain, which may be designated and amended via the promulgation of rules by the authority to reflect changing market conditions;

"Designated urban center" means an urban center designated in the State Development and Redevelopment Plan adopted by the State Planning Commission;

"Eligible position" means a full-time position retained by a business in this State for which a business provides employee health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of chapter 27 of Title 17B of the New Jersey Statutes;

"Full-time employee" means a person employed by the business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the authority, as full-time employment, or a person who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the authority, as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or an employee who is a resident of another State but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the authority, as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business;

"New business location" means the premises to which a business will relocate that the business has either purchased or built or for which the business has entered into a purchase agreement or a written lease for a period of no less than the commitment duration or eight years, whichever is greater, from the date of relocation. A “new business location” also means the business’s current location or locations if the business makes a capital investment equal to the total value of the business retention or relocation grant of tax credits to the business at that location or locations;

"Program" means the Business Retention and Relocation Assistance Grant Program created pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

"Project agreement" means an agreement between a business and the authority that sets the forecasted schedule for completion and occupancy of the project, the date the commitment duration shall commence, the amount and tax credit term of the applicable grant of tax credits, and other such provisions which further the purposes of P.L.1996, c.25 (C.34:1B-112 et seq.);

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered the eligible positions of the business;

"Tax credit term" means the period of time commencing with the first issuance of tax credits and continuing during the period in which the recipient of a grant of tax credits is eligible to apply the tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3); and

"Yearly tax credit amount" means \$1,500 times the number of retained full-time jobs. "Yearly tax credit amount" does not include the amount of any bonus award authorized pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1).

2. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to read as follows:

C.34:1B-114 Business Retention and Relocation Assistance Grant Program.

3. The Business Retention and Relocation Assistance Grant Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority and shall be administered by the authority. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated to premises outside of the State. To implement that purpose, and to the extent that funding for the program is available, the program may provide grants of tax credits. To be eligible for any grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), a business shall demonstrate to the authority, at the time of application, that the grant of tax credits and resultant retention of full-time jobs and any capital investment will yield a net positive benefit to the State. The net benefit resulting from the retention of full-time jobs and any capital investment by a business that has had grant pre-application meetings with the authority and has executed contracts relating to the new business location during the period commencing May 1, 2010 until the enactment of P.L.2010, c.123, shall be calculated from the date of the initial grant pre-application meeting.

3. Section 4 of P.L.1996, c.25 (C.34:1B-115) is amended to read as follows:

C.34:1B-115 Grant of tax credits; qualifications.

4. a. To qualify for a grant of tax credits, a business shall enter into an agreement to undertake a project to:

(1) relocate or maintain a minimum of 50 retained full-time jobs from one or more locations within this State to a new business location or locations in this State; and

(2) maintain the retained full-time jobs pursuant to the project agreement for the commitment duration.

b. A project that consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail

facilities shall be eligible for a grant of tax credits. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. For the purposes of this section, catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

4. Section 5 of P.L.2004, c.65 (C.34:1B-115.1) is amended to read as follows:

C.34:1B-115.1 Bonus awards to certain businesses.

5. a. In addition to any grant of tax credits determined pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3), a bonus award equivalent to 50% of the amount of the original grant of tax credits shall be made to any business that relocates more than 2,000 full-time employees covered by the project agreement from one or more locations outside of a designated urban center into a designated urban center, provided that all other applicable requirements of P.L.1996, c.25 (C.34:1B-112 et seq.) are satisfied; and provided further that no grant of tax credits shall be awarded pursuant to this section for any job that is moved from its current location in an urban enterprise zone designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) to a location that is not within an urban enterprise zone; however, that if the move from the urban enterprise zone is to a facility already owned or leased by the same business and that business already employs at least the same number of persons as those being relocated from the urban enterprise zone a grant of tax credits may still be awarded pursuant to this section.

b. In addition to any grant of tax credits determined pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3), and in addition to any bonus award pursuant to subsection a. of this section, a bonus award equivalent to 50% of the amount of the grant of tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3) shall be made to any business that makes a capital investment in an amount that is at least twice that of the total value of the grant of tax credits granted pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3) and the grant of tax credits pursuant to this subsection. A bonus award made pursuant to this subsection may be limited, so that when added to the tax credits granted pursuant to section 7 of P.L.2004, c. 65 (C.34:1B-115.3), the total amount shall not exceed 50% of the amount of the capital investment in this State.

5. Section 6 of P.L. 2004, c.65 (C.34:1B-115.2) is amended to read as follows:

C.34:1B-115.2 Qualification for grant of tax credits.

6. To qualify for a grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), a business shall demonstrate that the receipt of assistance pursuant to P.L.1996, c.25, will be a material factor in the business' decision not to relocate outside of New Jersey; provided however, that a business that relocates 1,500 or more retained full-time jobs covered by a project agreement from outside of a designated urban center to one or more new locations within a designated urban center shall not be required to make such a demonstration if the business applies for a grant of tax credits within six months of signing its lease or purchase agreement. A business that has had grant pre-application meetings with the authority and has executed contracts relating to the new business location during the period commencing May 1, 2010 until the enactment of P.L.2010, c.123 shall not be deemed ineligible for the grant due to the material factor requirement.

6. Section 7 of P.L.2004, c.65 (C.34:1B-115.3) is amended to read as follows:

C.34:1B-115.3 Limit on total value of grants of tax credits; approval schedule.

7. a. The total value of the grants of tax credits, approved by the authority pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), that may be applied against tax liability in a fiscal year shall not exceed an aggregate annual limit of \$20,000,000. The total value of the grants of tax credits, issued pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), that a single business may apply against its tax liability shall not exceed an aggregate annual limit of \$10,000,000 in a fiscal year. A tax credit issued pursuant to P.L.1996, c.25 may be applied against liability in the single tax period in which the tax credit or portion of the tax credit may be applied as prescribed by the project agreement and as set forth in subsection b. of this section and shall expire thereafter.

b. Subject to the limitation set forth in subsection a. of this section, grants of tax credits shall be approved for qualifying businesses according to the following schedule, and shall be issued upon the execution and satisfaction of the requirements of the project agreement between the authority and the business with an approved project:

(1) for a project that covers a business relocating or retaining 50 to 250 full-time employees, a grant of tax credits shall be for the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1), and may be applied against liability in the tax period in which the tax credit is issued;

(2) for a project that covers a business relocating or retaining 251 to 400 full-time employees, a grant of tax credits shall be for two times the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1), and may be applied against liability in the tax period in which the tax credit is issued and the following tax period, for one-half of the total grant award per tax period, provided that the use of the credit must be accompanied by a certificate of compliance;

(3) for a project that covers a business relocating or retaining 401 to 600 full-time employees, a grant of tax credits shall be for three times the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1) and may be applied against liability in the tax period in which the tax credit is issued and the following two tax periods, for one-third of the total grant award per tax period, provided that the use of the credit must be accompanied by a certificate of compliance;

(4) for a project that covers a business relocating or retaining 601 to 800 full-time employees, a grant of tax credits shall be for four times the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1) and may be applied against liability in the tax period in which the tax credit is issued and the following three tax periods, for one-fourth of the total grant award per tax period, provided that the use of the credit must be accompanied by a certificate of compliance;

(5) for a project that covers a business relocating or retaining 801 to 1,000 full-time employees, a grant of tax credits shall be for five times the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1) and may be applied against liability in the tax period in which the tax credit is issued and the following four tax periods for one-fifth of the total grant award per tax period, provided that the use of the credit must be accompanied by a certificate of compliance; and

(6) for a project that covers a business relocating or retaining 1,001 or more full-time employees, a grant of tax credits shall be for six times the yearly tax credit amount plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1) and may be applied against liability in the tax period in which the tax credit is issued and the

following five tax periods, for one-sixth of the total grant award per tax period, provided that the use of the credit must be accompanied by a certificate of compliance.

c. If the approval of a grant of tax credits pursuant to this section would exceed the \$20,000,000 aggregate annual limit, the authority may award a smaller grant of tax credits or no grants of tax credits, as necessary to comply with the aggregate annual limit.

7. Section 5 of P.L.1996, c.25 (C.34:1B-116) is amended to read as follows:

C.34:1B-116 Grant application.

5. Each business seeking a grant of tax credits for a project shall submit an application for approval of the project to the authority in a form and manner prescribed in regulations adopted by the authority. The application must be submitted to the authority for approval at least 45 days prior to moving to the new business location; provided however, a business relocating 1,500 or more retained full-time jobs to one or more new locations within a designated urban center shall, if relocating to a leased location, submit an application within six months of executing its lease. A business that has had grant pre-application meetings with the authority and has executed contracts relating to the new business location during the period commencing May 1, 2010 until the enactment of P.L.2010, c.123 shall not be deemed ineligible for the grant due to the requirement to apply 45 days before moving to the new business location. The application for approval of a project shall include:

- a. A schedule of short-term and long-term employment projections of the business in the State based upon the relocation;
- b. (Deleted by amendment, P.L.2004, c.65.)
- c. Terms of any lease agreements, either existing or proposed, or details of the purchase or building of the new business location, if applicable;
- d. An estimate of the projected retained State tax revenues resulting from the relocation;
- e. A description of the type of contribution the business can make to the long-term growth of the State's economy and a description of the potential impact on the State's economy if the jobs are not retained;
- f. Evidence that the business or a predecessor entity has been operating, in whole or in part, in this State for at least 10 years prior to the filing of the application;
- g. Evidence of alternative relocation plans, such as an analysis of the cost effectiveness of remaining in this State versus relocation under the alternative plans;
- h. (Deleted by amendment, P.L.2010, c.123); and
- i. Any other necessary and relevant information as determined by the authority.

The authority staff may provide whatever assistance the authority deems appropriate in the preparation of an application for approval of a project and may issue grants of tax credits pursuant to the project agreement entered between the authority and the business.

The project agreement shall include terms establishing the starting date, or event that will determine the starting date, of the commitment duration and any other terms or conditions as determined by the authority, which shall include the number of full-time jobs that must be maintained in the State by the business over the commitment duration.

8. Section 6 of P.L.1996, c.25 (C.34:1B-117) is amended to read as follows:

C.34:1B-117 Conditions for issuance of tax credits.

6. No tax credits issued as a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.) may be applied by the business against liability until the State Treasurer has certified

that the amount of retained State tax revenue from the business for the tax period prior to the period in which the credits will be applied pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), equals or exceeds the amount of the tax credits.

9. Section 7 of P.L.1996, c.25 (C.34:1B-118) is amended to read as follows:

C.34:1B-118 Grant limitations.

7. a. A business that is receiving a business employment incentive grant pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et al.) shall not be eligible to receive a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.) with respect to a job which is included in the calculation of a grant pursuant to P.L.1996, c.26.

b. A business that is receiving any other grant by operation of State law shall be eligible to receive a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.); provided, however, that a business that is receiving another State grant shall not be eligible to receive assistance with respect to any job that is currently the subject of any other State grant, except for grants from the Office of Customized Training pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.), and provided further that a business shall not receive an amount as a grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) unless the State will realize a net positive benefit from the grant of tax credits and resultant retention of full-time jobs and any capital investment when combined with such other grants, except upon the approval of the State Treasurer. Amounts received as grants from the Office of Customized Training pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.), shall be excluded from the calculation of the total amount permitted under this subsection.

10. Section 11 of P.L.2004, c.65 (C.34:1B-118.1) is amended to read as follows:

C.34:1B-118.1 Award, amount of grant; factors.

11. In considering the award and the amount of any grant of tax credits made pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), the authority may consider, as part of the authority's overall review process, the following factors:

- a. The number of full-time jobs retained;
- b. The quality of the full-time jobs retained, including but not limited to the salaries and benefits provided to retained full-time employees;
- c. Any capital investments made by the business at the new business location;
- d. The nature of the business' operations, including but not limited to whether the business is a designated industry;
- e. The potential impact on the State if the business were to relocate to another state;
- f. The site of the new business location and its consistency with the smart growth 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);
- g. Whether positions average at least 1.5 times the minimum hourly wage during the commitment duration; and
- h. The duration and extent of past operations by the business in New Jersey and any other information indicating the business' level of commitment to the State and the likelihood that the business will continue to operate in this State in the future.

11. Section 8 of P.L.1996, c.25 (C.34:1B-119) is amended to read as follows:

C.34:1B-119 Rules, regulations relative to program.

8. The authority shall, after consultation with the Director of the Division of Taxation, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to govern the proper conduct and operation of the program consistent with the provisions of P.L.1996, c.25 (C.34:1B-112 et seq.) including, but not limited to, a procedure for recapturing relocation grants of tax credits awarded pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) in those cases in which the authority determines that the business receiving the grant of tax credits fails to meet or comply with any condition or requirement attached by the authority to the receipt of the grant of tax credits or included in rules and regulations adopted by the authority governing the implementation of the program. The Director of the Division of Taxation, after consultation with the authority, is authorized to promulgate such rules and regulations as may be necessary to effect the tax-related provisions of the program.

12. Section 9 of P.L.1996, c.25 (C.34:1B-120) is amended to read as follows:

C.34:1B-120 Certificate of compliance indicating amount of tax credits.

9. As determined by the authority, a business which is awarded a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.) shall submit annually, no later than March 1st of each year, commencing in the year in which the grant of tax credits is issued and for the remainder of the commitment duration, a certificate of compliance that indicates that the business continues to maintain the number of retained full-time jobs as specified in the project agreement. Upon receipt and review thereof during the tax credit term, the authority shall issue a certificate of compliance indicating the amount of tax credits that the business may apply against liability pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3). Any reduction in the number of retained full-time jobs below the number prescribed under the terms of the project agreement shall proportionately reduce the amount of tax credits the business may apply against liability in that tax period and the credits that may no longer be applied for that tax period shall be forfeited. However, if in any tax period, the number of retained full-time jobs drops below the minimum number of retained full-time jobs indicated in the paragraph of subsection b. of section 7 of P.L.2004, c.65 (C.34:1B-115.3) pursuant to which the project agreement was executed such that the business would no longer be eligible to apply the credits for the number of years for which it was approved, then the authority shall reduce the amount of tax credits the business may apply against liability and the number of years in which the business may apply the tax credits. The grant shall be subject to recapture provisions pursuant to the project agreement.

13. Section 14 of P.L.2004, c.65 (C.34:1B-120.1) is amended to read as follows:

C.34:1B-120.1 Rules for recapture of tax credits.

14. The authority is authorized to pursue, and shall adopt rules for, the recapture of all, or a portion of, the grant of tax credits, based on criteria established by the authority pursuant to regulation or under the terms of the project agreement. The rules shall allow for the authority to pursue the full or partial recapture or, in its discretion, to notify the Director of the Division of Taxation in the Department of the Treasury, who shall issue a recapture assessment which shall be based upon the proportionate value of the grant of tax credits that

corresponds to the amount and period of noncompliance, in which case, the recapture of funds shall be subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. Recaptured funds shall be deposited in the General Fund of the State.

14. Section 17 of P.L.2004, c.65 (C.34:1B-120.2) is amended to read as follows:

C.34:1B-120.2 Corporation business tax, insurance premiums tax credits.

17. a. The authority shall establish a corporation business tax credit and insurance premiums tax credit certificate transfer program to allow businesses in this State with unused amounts of tax credits issued under P.L.1996, c.25 (C.34:1B-112 et seq.), and otherwise allowable, that cannot be applied by the business to which originally issued before the expiration of the credit, to surrender those tax credits for use by other corporation business and insurance premiums taxpayers in this State. The tax credits may be used on the corporation business tax and insurance premiums tax returns to be filed by those taxpayers in exchange for private financial assistance to be provided by the corporation business taxpayer or insurance premiums taxpayer that is the recipient of the corporation business tax credit certificate or insurance premiums tax credit certificate to assist in the funding of costs incurred by the relocating business.

b. Businesses may apply to the authority and the Director of the Division of Taxation for a tax credit transfer certificate, covering one or more years. Upon receipt thereof, the business may sell or assign the tax credit certificate in exchange for private financial assistance to be made by the purchaser in an amount equal to at least 75% of the amount of the surrendered tax credit of a business relocating in the State. The private financial assistance shall assist in funding expenses incurred in connection with the operation of the business in the State, including but not limited to the expenses of fixed assets, such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development expenditures and any other expenses determined by the authority to be necessary to carry out the purposes of P.L.1996, c.25 (C.34:1B-112 et seq.).

c. The authority shall establish procedures to facilitate such transfers and encourage liquidity and simplicity in the market for the purchase and sale of such certificates, including, in the authority's discretion, coordinating the applications for surrender and acquisition of unused but otherwise allowable tax credits pursuant to this section in a manner that can best stimulate and encourage the extension of private financial assistance to businesses in this State.

d. The authority shall, in consultation with the Director of the Division of Taxation, develop criteria for the approval or disapproval of applications.

15. Section 10 of P.L.1996, c.25 (C.34:1B-121) is amended to read as follows:

C.34:1B-121 Annual report on program.

10. The authority shall prepare and transmit to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on or before November 1st of each year, a report concerning the impact of the program on job retention in the State.

Repealer.

16. Section 11 of P.L.1996, c.25 (C.34:1B-122) is repealed.

17. This act shall take effect immediately.

Approved January 6, 2011.