

CHAPTER 149

AN ACT providing for the availability of tax credits to certain businesses, authorizing a transfer of certain real property, and supplementing Title 34 of the Revised Statutes, amending various parts of the statutory law, and repealing section 6 of P.L.1996, c.25.

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

C.34:1B-242 Short title.

1. Sections 1 through 9 of this act shall be known and may be cited as the "Grow New Jersey Assistance Act."

C.34:1B-243 Definitions relative to the "Grow New Jersey Assistance Act."

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). A taxpayer 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. An affiliate of a business may contribute to meeting either the qualified investment or full-time employee requirements of a business that applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-209).

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

"Business" means a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a corporation that is subject to the tax imposed pursuant to 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, or is a partnership, an S corporation, or a limited liability corporation. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

"Capital investment" in a qualified business facility means expenses incurred after application, but before the end of the tenth year after, the effective date of P.L.2011, c.149 (C.34:1B-242 et al.) for: a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing of a building, structure, facility, or improvement to real property; and b. obtaining and installing furnishings and machinery, apparatus, or equipment for the operation of a business in a building, structure, facility, or improvement to real property.

"Eligible position" means a full-time position retained or created 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 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 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 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 full-time job" means an eligible position created by the business at the qualified business facility that did not previously exist in this State. For the purposes of determining a number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

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

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

"Program" means the "Grow New Jersey Assistance Program" established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244).

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, used in connection with the operation of a business.

"Qualified incentive area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or any urban, regional, or town designated center under the State Development and Redevelopment Plan; an area zoned for development pursuant to a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21); any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4); a pinelands regional growth area, a pinelands town management area, a pinelands village, or a military and federal installation area established pursuant to the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); an area designated for development, redevelopment, or economic growth within the Highlands Region; federally owned land approved for closure under any federal Base Closure and Realignment Commission action; or any property consisting of a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year or is negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

"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 eligible positions of the business.

C.34:1B-244 Grow New Jersey Assistance Program.

3. a. The Grow New Jersey Assistance 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 outside of the State. To implement this purpose, and to the extent that funding for the program is available, the program may provide tax credits to eligible businesses. To be eligible for any tax credits pursuant to P.L.2011, c.149 (C.34:1B-242 et al.), a business's chief executive officer or equivalent officer shall demonstrate to the authority, at the time of application, that: (1) the business will make, acquire, or lease a capital investment of at least \$20,000,000 at a qualified business facility at which it will (a) employ at least 100 full-time employees in retained full-time jobs, or (b) create at least 100 new full-time jobs in an industry identified by the authority as desirable for the State to maintain or attract; (2) the capital investment resultant from the award of tax credits and the resultant retention and creation of eligible positions will yield a net positive benefit to the State; and, except as provided in subsection d. of this section, (3) the award of tax credits will be a material factor in the business's decision to create or retain the minimum number of full-time jobs for eligibility under the program.

b. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating that any existing jobs are at risk of leaving the State, that any projected creation of new full-time jobs would not occur but for the provision of tax credits under the program, and that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, before a business may be awarded any tax credits under this section.

c. 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.

d. The authority may determine as eligible for tax credits under the program any business that is required to respond to a request for proposals and to fulfill a contract with the federal government although the business's chief executive officer or equivalent officer has not demonstrated to the authority that the award of tax credits will be a material factor in the business's decision to retain at least 100 full-time jobs, as otherwise required by paragraph (3) of subsection a. of this section. The authority may, in its discretion, consider the economic benefit of the retained jobs servicing the contract in conducting a net benefit analysis required by paragraph (2) of subsection a. of this section. For the purposes of this subsection, "retained jobs" includes jobs that are at risk of being eliminated. Applications to the authority for eligibility under the program pursuant to the criteria set forth in this subsection shall be completed by March 31, 2012. Submission of a proposal to the federal government prior to authority approval shall not disqualify a business from the program.

C.34:1B-245 Agreement required prior to issuance of tax credits.

4. The authority shall require an eligible business to enter an agreement prior to the issuance of tax credits. The agreement shall include, but shall not be limited to, the following:

a. A detailed description of the proposed project which will result in job creation or retention, and the number of full-time employees.

b. The term of the tax credits, and the first year for which the tax credits may be claimed.

c. Personnel information that will enable the authority to administer the program.

d. A requirement that the applicant maintain the project at a location in New Jersey for at least 1.5 times the number of years of the term of the tax credits, with at least the number of full-time employees as required by section 6 of P.L.2011, c.149 (C.34:1B-247) and a provision to permit the authority to recapture all or part of any tax credit awarded, at its discretion, if the business does not remain at the site for the required term.

e. A method for the business to report annually to the authority the number of full-time employees for which the tax credits are to be made.

f. A provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary.

g. A provision which permits the authority to amend the agreement.

h. A provision establishing the conditions under which the agreement may be terminated and awarded tax credits are recaptured, in whole or in part, by the authority at its discretion.

C.34:1B-246 Value of tax credit for eligible business.

5. a. The value of each tax credit for an eligible business shall be equal to \$5,000 per year for a period of ten years for each new or retained full-time job determined by the authority pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244) to be located at the qualified business facility, subject to the provisions of this section.

b. In addition to any grant of tax credits determined pursuant to subsection a. of this section, a bonus award of up to an additional \$3,000 per job of the amount of the original tax credits may be made to any eligible business as determined by the authority. In making a bonus award to an eligible business, the authority shall consider the following factors, such that whether the business: (1) is an industry identified by the authority as desirable for the State to maintain or attract; (2) locates or relocates to a location within a qualified incentive area adjacent to, or within walking distance or short-distance-shuttle service of, a public transit facility, as determined by the authority, by regulation; (3) creates jobs using full-time

employees in eligible positions whose annual salaries, according to the Department of Labor and Workforce Development, are greater than the average full-time salary in this State; or (4) is locating to a project site that is or has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

c. Notwithstanding the provisions of subsections a. and b. of this section, (1) the amount of tax credits available to be applied by the business annually shall not exceed the lesser of one tenth of the capital investment certified by the authority pursuant to section 6 of P.L.2011, c.149 (C.34:1B-247) or \$4,000,000, and (2) the number of new full-time jobs for which a business receives a tax credit shall not exceed the number of retained full-time jobs for which a business receives a tax credit, unless the business qualifies by creating at least 100 new full-time jobs in an industry identified by the authority as desirable for the State to maintain or attract.

C.34:1B-247 Limit on value of approved credits.

6. a. (1) The value of all credits approved by the authority pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed \$200,000,000, except that the value of all credits approved by the authority pursuant to this section may exceed \$200,000,000 if the board of the authority determines the credits to be reasonable, justifiable, and appropriate; provided, however, the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed \$1,500,000,000.

(2) A business, including any affiliate of the business or any business that is a tenant within any qualified business facility, shall make or acquire capital investments totaling not less than \$20,000,000 in a qualified business facility, at which the business shall employ not fewer than 100 full-time employees to be eligible for a credit pursuant to P.L.2011, c.149. A business that acquires or leases a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord, as the case may be.

(3) A business shall not be allowed tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-124 et seq.) relating to the same capital and employees that qualify the business for tax credits pursuant to P.L.2011, c.149. A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for a tax credit under this section, based upon capital investment and employment of full-time employees, if that capital investment or employment was the basis for which a grant was provided to the business pursuant to the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207 et seq.).

(4) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(5) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility. For a business that is a tenant, the amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital

investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of \$20,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of \$20,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility.

b. A business shall apply for the tax credit prior to July 1, 2014, and shall submit its documentation indicating that it has met the capital investment and employment specified in the project agreement for certification of its credit amount no later than July 28, 2017.

c. (1) The amount of credit allowed shall not exceed the capital investment made by the business or the capital investment represented by the business' leased area, as certified by the authority pursuant to subsection b. of this section, as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period ending after July 28, 2017, during which the documentation of a business' credit amount remains uncertified shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter, provided that the value of all credits approved by the authority against tax liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not exceed \$150,000,000 and the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed \$1,500,000,000.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business' Statewide workforce to the

threshold levels required by this paragraph has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 100 or 80 percent of the number of new and retained full-time jobs specified in the project agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 100.

(3) (a) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(b) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

C.34:1B-248 Application for tax credit transfer certificate.

7. A business may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the business being allowed any amount of the credit against the tax liability of the business. The tax credit transfer certificate, upon receipt thereof by the business from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5. The certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the business of less than 75 percent of the transferred credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the business that originally applied for and was allowed the credit.

C.34:1B-249 Rules, regulations adopted by chief executive officer, authority.

8. a. The chief executive officer of the authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement P.L.2011, c.149 (C.34:1B-242 et al.), including but not limited to: examples of and the determination of capital investment; the enumeration of qualified incentive areas; specific delineation of these incentive areas; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a tax credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility; and provisions for tax credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the tax credit.

b. Through regulation, the authority shall establish standards by which qualified business facilities shall be constructed or renovated based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

C.34:1B-250 Certain sales, conveyances authorized.

9. a. Notwithstanding the provisions of P.L.1962, c. 220 (C.52:31-1.1 et seq.), P.L. 2011, c.85, or any other law or regulation to the contrary, and without the requirement for the approval by any other party or entity, the State Treasurer is hereby authorized to sell and convey, to the New Jersey Performing Arts Center, in one or more series of transactions, all or any portion of the State of New Jersey's right, title and interest in the land and improvements located in the City of Newark, County of Essex, now subject to the sublease between the State Treasurer and the New Jersey Performing Arts Center which appear on the tax map of the City of Newark and are designated as Block 125, Lots 23, 26 and 115, Block 126.01, Lot 21, such portion of Block 17, Lot 1, which was designated for commercial development pursuant to the sublease, and Block 17, Lots 20 and 21. Such conveyances shall be on such terms and conditions, and for such consideration, as shall be determined by the State Treasurer in the State Treasurer's sole discretion. The proceeds from any such sales and conveyances shall be deposited and applied as provided by law. In the event that the identification of any of the property contained in this section by block and lot number is inaccurate, the State Treasurer is authorized to convey such blocks and lots which are subject to the sublease between the State Treasurer and the New Jersey Performing Arts Center as represent the actual parcels to be conveyed.

b. The State Treasurer is hereby authorized to enter into any agreements, and to amend any existing agreements, required to effectuate this sale and conveyance to the New Jersey Performing Arts Center and any such agreements and amendments shall not require the approval of any other party or entity, notwithstanding any other law or regulation to the contrary.

c. The New Jersey Economic Development Authority is hereby authorized to sell and convey all or any portion of its right, title, and interest in the property described in subsection a. of this section to the New Jersey Performing Arts Center, in one or more series of transactions on such terms and conditions, and for such consideration, as shall be determined by the authority in its sole discretion and to enter into any agreements and amend any existing agreements required to effectuate this sale and conveyance. Any such sale or conveyance shall not require the approval of any other party or entity, notwithstanding any other law or regulation to the contrary.

10. Section 2 of P.L.2007, c.346 (C.34:1B-208) is amended to read as follows:

C.34:1B-208 Definitions relative to the "Urban Transit Hub Tax Credit Act."

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). A taxpayer 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. An affiliate of a business may contribute to meeting either the qualified investment or full-time employee requirements of a business that applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-209).

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

"Business" means a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a corporation that is subject to the tax imposed pursuant to 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, or is a partnership, an S corporation, or a limited liability corporation. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

"Capital investment" in a qualified business facility means expenses incurred after, but before the end of the eighth year after, the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) for: a. the site preparation and construction, repair, renovation, improvement, equipping, or furnishing of a building, structure, facility or improvement to real property; and b. obtaining and installing furnishings and machinery, apparatus or equipment for the operation of a business in a building, structure, facility or improvement to real property.

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

"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 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 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 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.

"Mixed use project" means a project comprising both a qualified business facility and a qualified residential project.

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

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a designated urban transit hub in an eligible municipality, used in connection with the operation of a business.

"Qualified residential project" shall have the meaning ascribed to that term under section 34 of P.L.2009, c.90 (C.34:1B-209.2).

"Residential unit" means a residential dwelling unit such as a rental apartment, a condominium or cooperative unit, a hotel room, or a dormitory room.

"Urban transit hub" means:

a. (1) property located within a 1/2-mile radius surrounding the mid point of a New Jersey Transit Corporation, Port Authority Transit Corporation or Port Authority Trans-Hudson Corporation rail station platform area, including all light rail stations, and

(2) property located within a one-mile radius of the mid point of the platform area of such a rail station if the property is in a qualified municipality under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.) or in an area that is the subject of a Choice Neighborhoods Transformation Plan funded by the federal Department of Housing and Urban Development, and

(3) the site of the campus of an acute care medical facility located within a one-mile radius of the mid point of the platform area of such a rail station, and

(4) the site of a closed hospital located within a one-mile radius of the mid point of the platform area of such a rail station;

b. property located within a 1/2-mile radius surrounding the mid point of one of up to two underground light rail stations' platform areas that are most proximate to an interstate rail station;

c. property adjacent to, or connected by rail spur to, a freight rail line if the business utilizes that freight line at any rail spur located adjacent to or within a one-mile radius surrounding the entrance to the property for loading and unloading freight cars on trains;

which property shall have been specifically delineated by the authority pursuant to subsection e. of section 3 of P.L.2007, c.346 (C.34:1B-209).

A property which is partially included within the radius shall only be considered part of the urban transit hub if over 50 percent of its land area falls within the radius.

"Rail station" shall not include any rail station located at an international airport, except that any property within a 1/2-mile radius surrounding the mid point of a New Jersey Transit Corporation rail station platform area at an international airport upon which a qualified business facility is constructed or renovated commencing after the effective date of P.L.2011, c.149 (C.34:1B-242 et al.) shall be deemed an urban transit hub, excluding any property owned or controlled by the Port Authority of New York and New Jersey.

11. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to read as follows:

C.34:1B-209 Credit for qualified business facilities, conditions for eligibility; allowance.

3. a. (1) A business, upon application to and approval from the authority, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility within an eligible municipality, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible

municipality. The value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall not exceed \$1,500,000,000.

(2) A business, other than a tenant eligible pursuant to paragraph (3) of this subsection, shall make or acquire capital investments totaling not less than \$50,000,000 in a qualified business facility, at which the business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. A business that acquires a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) A business that is a tenant in a qualified business facility, the owner of which has made or acquired capital investments in the facility totaling not less than \$50,000,000, shall occupy a leased area of the qualified business facility that represents at least \$17,500,000 of the capital investment in the facility at which the tenant business and up to two other tenants in the qualified business facility shall employ not fewer than 250 full-time employees in the aggregate to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of \$50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of \$50,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility.

(4) A business shall not be allowed tax credits under this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for a tax credit under this section, based upon capital investment and employment of full-time employees, if that capital investment or employment was the basis for which a grant was provided to the business pursuant to the "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-237 et seq.).

(5) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(6) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility.

(7) A business shall be allowed a tax credit of 100 percent of its capital investment, made after the effective date of P.L.2011, c.89 but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility that is part of a mixed use project, provided that (a) the qualified business facility represents at least \$17,500,000 of the total capital investment in the mixed use project, (b) the business employs not fewer than 250 full-time employees in the qualified business facility, and (c) the total capital investment in the mixed use project of which the qualified business facility is a part is not less than \$50,000,000. The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (6) of this subsection, including but not

limited to the requirement that the business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality.

(8) In determining whether a proposed capital investment will yield a net positive benefit, the authority shall not consider the transfer of an existing job from one location in the State to another location in the State as the creation of a new job, unless (a) the business proposes to transfer existing jobs to a municipality in the State as part of a consolidation of business operations from two or more other locations that are not in the same municipality whether in-State or out-of-State, or (b) the business's chief executive officer, or equivalent officer, submits a certification to the authority indicating that the existing jobs are at risk of leaving the State and that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, and the business intends to employ not fewer than 500 full-time employees in the qualified business facility. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the company to submit the following information as part of its application: a full economic analysis of all locations under consideration by the company; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, before a business may be awarded any tax credits under this section.

b. A business shall apply for the credit within five years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.), and shall submit its documentation for approval of its credit amount within eight years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.).

c. (1) The amount of credit allowed shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, or area owned by the business as a condominium, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first certified by the authority as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period ending after the date eight years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the documentation of a business' credit amount remains uncertified shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in

the next 20 successive tax periods, and shall expire thereafter, provided that the value of all credits approved by the authority against tax liabilities pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year shall not exceed \$150,000,000.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed; provided, however, that for businesses applying before January 1, 2010, there shall be no reduction if a business relocates to an urban transit hub from another location or other locations in the same municipality. For the purposes of this paragraph, a "new full-time position" means a position created by the business at the qualified business facility that did not previously exist in this State.

(2) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax accounting or privilege period prior to the credit amount approval under subsection a. of this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business' Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(3) If, in any tax period, (a) the number of full-time employees employed by the business at the qualified business facility located in an urban transit hub within an eligible municipality drops below 250, or (b) the number of full-time employees, who are not the subject of intra-State job transfers, pursuant to paragraph (8) of subsection a. of this section, employed by the business at any other business facility in the State, whether or not located in an urban transit hub within an eligible municipality, drops by more than 20 percent from the number of full-time employees in its workforce in the last tax accounting or privilege period

prior to the credit amount approval under this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 250 or an increase above the 20 percent reduction has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(4) (i) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(ii) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

e. (1) The Executive Director of the New Jersey Economic Development Authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this act, including but not limited to: examples of and the determination of capital investment; the enumeration of eligible municipalities; specific delineation of urban transit hubs; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility or mixed use project; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

(2) Through regulation, the Economic Development Authority shall establish standards based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

12. 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). A business that acquires or leases a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord, as the case may be;

"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).

13. 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 for any tax period 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.

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 executive director of 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.

Repealer.

15. Section 6 of P.L.1996, c.25 (C.34:1B-117) is repealed.

16. This act shall take effect immediately.

Approved January 5, 2012.