



LexisNexis (TM) New Jersey Annotated Statutes

\*\*\* This section is current through New Jersey 215th Legislature \*\*\*  
Second Annual Session, P.L. 2013 Chapter 61 and JR 8

TITLE 34. LABOR AND WORKERS' COMPENSATION  
CHAPTER 1B. BUSINESS AND INDUSTRY PROMOTION  
PART I. NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ACT

**GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY**

*N.J. Stat. § 34:1B-7.37 (2013)*

§ 34:1B-7.37. Short title [N.J. Emerging Technology and Biotechnology Financial Assistance Act]

This act shall be known and may be cited as the "New Jersey Emerging Technology and Biotechnology Financial Assistance Act."

**HISTORY:** L. 1995, c. 137, § 1.

**NOTES:**

Cross References:

Corporation business tax benefit certificate transfer program, see *34:1B-7.42a*.



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*N.J. Stat. § 34:1B-7.38 (2013)*

§ 34:1B-7.38. Findings, declarations

The Legislature finds and declares that:

- a. Biotechnology is an emerging technology that holds great promise for designing living organisms that can be used for the treatment of diseases, and improvements to plants and animals, and to otherwise provide for exceptional advances for the betterment of living things;
- b. The development and support of biotechnology is especially important in light of the long-established pharmaceutical industry in the State, the many related university research programs on biotechnology, and the sizable investment, to date, of State funds in academic "centers of excellence," and is also vital to the fulfillment of certain responsibilities of the New Jersey Commission on Science and Technology;
- c. In order for society to appreciate the anticipated potential rewards from emerging technology and biotechnology research, private industry must have access to sufficient financial resources to conduct research and transfer research discoveries into viable, commercial products;
- d. As an emerging technology, biotechnology, the biotechnology industry, and the industry's required concomitant facilities face significant obstacles in obtaining financial assistance because of the perceived risk of investing in such new ventures;
- e. Because of the substantial employment opportunities that could be created by successful emerging technology and biotechnology industries and the resulting importance of such industries to the State's economic base, the State can best stimulate and encourage private investment in emerging technology and biotechnology by directing the New Jersey Economic Development Authority to provide financial assistance to emerging technology and biotechnology companies located in the State;
- f. In considering how to best allocate its resources pursuant to this act, the authority should give due consideration to further supporting emerging technology or biotechnology joint ventures by providing economic development funds and assistance to help stimulate growth in disadvantaged urban areas of the State, where public-private partnerships have already been formed, or will be formed, to promote emerging technology and biotechnology research and product development initiatives.

**HISTORY:** L. 1995, c. 137, § 2.



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*N.J. Stat. § 34:1B-7.39 (2013)*

§ 34:1B-7.39. Definitions relative to emerging technology, biotechnology

As used in this act:

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

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies and sub-technologies developed as a result of insights gained from research advances which add to that body of fundamental knowledge;

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

"Cost" means the expenses incurred in connection with the operation of an emerging technology or biotechnology company in the State and shall include, but need not be limited to, the expenses of fixed assets, such as the construction, acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, and any other expenses determined by the authority to be necessary to carry out the purposes of this act;

"Emerging technology company" means a person, whose headquarters or base of operations is located in New Jersey, and who employs some combination of the following: highly educated or trained managers and workers, or both, employed in New Jersey who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service;

"Financial institution" means an individual or organization deemed eligible by the authority for participation in the program and shall include, but need not be limited to, State-chartered or federally-chartered banks, savings banks or savings and loan associations, banks organized under the laws of a foreign government, private individuals, insurance companies, landlords, finance companies and venture capitalists;

"Fixed assets" means any real property, interests in real property, plant, equipment, and any other assets commonly accepted as fixed assets;

"Program" means the "New Jersey Emerging Technology and Biotechnology Financial Assistance Program" established by the authority pursuant to section 4 of this act; and

"Working capital" means those liquid capital assets other than fixed assets.

**HISTORY:** L. 1995, c. 137, § 3.



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*N.J. Stat. § 34:1B-7.40 (2013)*

§ 34:1B-7.40. "New Jersey Emerging Technology and Biotechnology Financial Assistance Program" established

The authority shall establish a "New Jersey Emerging Technology and Biotechnology Financial Assistance Program" to stimulate increased financing to help fund the costs incurred by new or expanding emerging technology and biotechnology companies in the State.

**HISTORY:** L. 1995, c. 137, § 4.



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*N.J. Stat. § 34:1B-7.41 (2013)*

§ 34:1B-7.41. "New Jersey Emerging Technology and Biotechnology Financial Assistance Fund"

a. To implement the program, the authority shall establish and maintain a special account to be known as the "New Jersey Emerging Technology and Biotechnology Financial Assistance Fund," hereinafter the "assistance fund," which shall be credited with: (1) an amount from the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (*C.34:1B-7.12*) which the authority determines is necessary to effectively implement the program, within the limits of funding available from the Economic Recovery Fund; (2) any moneys that shall be received by the authority from the repayment of the moneys in the assistance fund used to provide financial assistance pursuant to this act and interest thereon; (3) other moneys of the authority, including but not limited to, any moneys available from other business assistance programs administered by the authority which it determines to deposit therein; and (4) any appropriation made by the Legislature to effectuate the purposes of this act.

b. The authority shall use the moneys in the assistance fund to: (1) provide or participate in the provision of financial assistance to emerging technology or biotechnology companies deemed approved pursuant to section 6 of this act, which assistance may include, but need not be limited to, loan guarantees and assistance in establishing lines of credit, real estate development assistance, and technical advice on locating private and public sources of funding; and (2) defray the administrative expenses of the authority in carrying out the purposes and provisions of this act.

c. The maximum amount and term of a loan, line of credit or other form of financial assistance made pursuant to this act shall be determined by the authority.

d. Moneys in the assistance fund may be invested in such obligations as the authority may approve and net earnings received from the investment or deposit of moneys in the assistance fund by the authority shall be redeposited in the assistance fund for use for the purposes of this act.

e. The authority shall establish sufficient reserves and liquid reserves to provide a sufficient and actuarially sound basis for its pledges contained in any financial assistance agreement entered into pursuant to this act.

f. The authority is authorized to disburse moneys in the assistance fund for purposes unrelated to this act if, for a period of at least three years, no moneys are disbursed from the assistance fund for the purposes set forth pursuant to this act.

**HISTORY:** L. 1995, c. 137, § 5.



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*N.J. Stat. § 34:1B-7.42 (2013)*

§ 34:1B-7.42. Applications for money from fund; criteria; agreements

a. Applications for money from the assistance fund established under this act shall be submitted by emerging technology or biotechnology companies in a form and manner determined by the authority. The authority shall approve or disapprove applications pursuant to the criteria developed pursuant to subsection c. of this section, and may employ any institution of higher education in this State in the approval process.

b. The authority shall enter into written agreements with emerging technology or biotechnology companies approved for financial assistance pursuant to this act, and, as appropriate, with financial institutions concerning the type, amount and terms of the financial assistance provided.

c. The authority shall, in consultation with the Department of Commerce and Economic Developments, the New Jersey Commission on Science and Technology and pay institution of higher education in New Jersey, develop criteria for the approval or disapproval of applications submitted pursuant to subsection a. of this section. Such criteria shall include, but need not be limited to, an evaluation of the emerging technology or biotechnology company's actual or potential scientific and technological viability, a determination that the emerging technology or biotechnology company's principal products or services are sufficiently innovative to provide a competitive advantage, a determination that the proposed financial assistance will result in significant growth in permanent, full-time employment in the State, a determination that the emerging technology or biotechnology company has been unable to secure financial assistance on affordable terms from conventional sources, a determination that the financial assistance provided pursuant to this act demonstrates the prospect of a high rate of return on investment, and the extent to which the applicant's proposed or expanded activities will enhance or diversify the State's capacity and competitiveness in the field of emerging technology or biotechnology.

d. The Department of Commerce and Economic Development and the authority may promote economic development in disadvantaged urban areas of the State, where emerging technology or biotechnology joint ventures have been or will be established.

**HISTORY:** L. 1995, c. 137, § 6.



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*N.J. Stat. § 34:1B-7.42a (2013)*

§ 34:1B-7.42a. Corporation business tax benefit certificate transfer program

a. The New Jersey Economic Development Authority shall establish within the New Jersey Emerging Technology and Biotechnology Financial Assistance Program established pursuant to P.L.1995, c.137 (*C.34:1B-7.37 et seq.*), a corporation business tax benefit certificate transfer program to allow new or expanding emerging technology and biotechnology companies in this State with unused amounts of research and development tax credits otherwise allowable which cannot be applied for the credit's tax year due to the limitations of subsection b. of section 1 of P.L.1993, c.175 (*C.54:10A-5.24*) and unused net operating loss carryover pursuant to subparagraph (B) of paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162 (*C.54:10A-4*), to surrender those tax benefits for use by other corporation business taxpayers in this State, provided that the taxpayer receiving the surrendered tax benefits is not affiliated with a corporation that is surrendering its tax benefits under the program established under P.L.1997, c.334. For the purposes of this section, the test of affiliation is whether the same entity directly or indirectly owns or controls 5% or more of the voting rights or 5% or more of the value of all classes of stock of both the taxpayer receiving the benefits and a corporation that is surrendering the benefits. The tax benefits may be used on the corporation business tax returns to be filed by those taxpayers in exchange for private financial assistance to be provided by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate to assist in the funding of costs incurred by the new or expanding emerging technology and biotechnology company.

b. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by new or expanding emerging technology and biotechnology companies in this State with unused but otherwise allowable carryover of research and development tax credits pursuant to section 1 of P.L.1993, c.175 (*C.54:10A-5.24*), and unused but otherwise allowable net operating loss carryover pursuant to paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162 (*C.54:10A-4*), to surrender those tax benefits in exchange for private financial assistance to be made by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate in an amount equal to at least 80% of the amount of the surrendered tax benefit. Provided that the amount of the surrendered tax benefit for a surrendered research and development tax credit carryover is the amount of the credit, and provided that the amount of the surrendered tax benefit for a surrendered net operating loss carryover is the amount of the loss multiplied by the new or expanding emerging technology or biotechnology company's anticipated allocation factor, as determined pursuant to section 6 of P.L.1945, c.162 (*C.54:10A-6*) for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate provided pursuant to subsection (c) of section 5 of P.L.1945, c.162 (*C.54:10A-5*). The authority shall be authorized to approve the transfer of no more than \$ 60,000,000 of tax benefits in a State fiscal year. If the total amount of transferable tax benefits requested to be surrendered by approved applicants exceeds \$ 60,000,000 for a State fiscal year, the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall not be authorized to approve the transfer of more than \$ 60,000,000 for that State fiscal year and shall allocate the transfer of tax benefits by approved companies using the following method:

(1) an eligible applicant with \$ 250,000 or less of transferable tax benefits shall be authorized to surrender the entire amount of its transferable tax benefits;

(2) an eligible applicant with more than \$ 250,000 of transferable tax benefits shall be authorized to surrender a minimum of \$ 250,000 of its transferable tax benefits;

(3) (Deleted by amendment, P.L.2009, c.90.)

(4) an eligible applicant with more than \$ 250,000 shall also be authorized to surrender additional transferable tax benefits determined by multiplying the applicant's transferable tax benefits less the minimum transferable tax benefits that company is authorized to surrender under paragraph (2) of this subsection by a fraction, the numerator of which is the total amount of transferable tax benefits that the authority is authorized to approve less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection and the denominator of which is the total amount of transferable tax benefits requested to be surrendered by all eligible applicants less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection;

(5) The authority shall establish the boundaries for three innovation zones to be geographically distributed in the northern, central, and southern portions of this State. Of the \$ 60,000,000 of transferable tax benefits authorized for each State fiscal year, \$ 10,000,000 shall be allocated for the surrender of transferable tax benefits exclusively by new and expanding emerging technology and biotechnology companies that operate within the boundaries of the innovation zones, except that any portion of the \$ 10,000,000 that is not so approved shall be available for that State fiscal year for the surrender of transferable tax benefits by new and expanding emerging technology and biotechnology companies that do not operate within the boundaries of an innovation zone.

If the total amount of transferable tax benefits that would be authorized using the above method exceeds \$ 60,000,000 for a State fiscal year, then the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall limit the total amount of tax benefits authorized to be transferred to \$ 60,000,000 by applying the above method on an apportioned basis.

For purposes of this section transferable tax benefits include an eligible applicant's unused but otherwise allowable carryover of net operating losses multiplied by the applicant's anticipated allocation factor as determined pursuant to section 6 of P.L.1945, c.162 (*C.54:10A-6*) for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate as provided in subsection (c) of section 5 of P.L.1945, c.162 (*C.54:10A-5*) plus the total amount of the applicant's unused but otherwise allowable carryover of research and development tax credits. An eligible applicant's transferable tax benefits shall be limited to net operating losses and research and development tax credits that the applicant requests to surrender in its application to the authority and shall not, in total, exceed the maximum amount of tax benefits that the applicant is eligible to surrender.

No application for a corporation business tax benefit transfer certificate shall be approved in which the new or expanding emerging technology or biotechnology company (1) has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board; or (2) is directly or indirectly at least 50 percent owned or controlled by another corporation that has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board or is part of a consolidated group of affiliated corporations, as filed for federal income tax purposes, that in the aggregate has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its combined financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board.

The maximum lifetime value of surrendered tax benefits that a corporation shall be permitted to surrender pursuant to the program is \$ 15,000,000. Applications must be received on or before June 30 of each State fiscal year.

The authority, in consultation with the Division of Taxation, shall establish rules for the recapture of all, or a portion of, the amount of a grant of a corporation business tax benefit certificate from the new or expanding emerging technology and biotechnology company having surrendered tax benefits pursuant to this section in the event the taxpayer fails to use the private financial assistance received for the surrender of tax benefits as required by this section or fails to maintain a headquarters or a base of operation in this State during the five years following receipt of the private financial assistance; except if the failure to maintain a headquarters or a base of operation in this State is due to the liquidation of the new or expanding emerging technology and biotechnology company.



c. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by taxpayers under the Corporation Business Tax Act (1945), P.L.1945, c.162 (*C.54:10A-1* et seq.), to acquire surrendered tax benefits approved pursuant to subsection b. of this section which shall be issued in the form of corporation business tax benefit transfer certificates, in exchange for private financial assistance to be made by the taxpayer in an amount equal to at least 80% of the amount of the surrendered tax benefit of an emerging technology or biotechnology company in the State. A corporation business tax benefit transfer certificate shall not be issued unless the applicant certifies that as of the date of the exchange of the corporation business tax benefit certificate it is operating as a new or expanding emerging technology or biotechnology company and has no current intention to cease operating as a new or expanding emerging technology or biotechnology company.

The private financial assistance shall assist in funding expenses incurred in connection with the operation of the new or expanding emerging technology or biotechnology company 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 the New Jersey Emerging Technology and Biotechnology Financial Assistance Program.

The authority shall require a corporation business taxpayer that acquires a corporation business tax benefit certificate to enter into a written agreement with the new or expanding emerging technology or biotechnology company concerning the terms and conditions of the private financial assistance made in exchange for the certificate. The written agreement may contain terms concerning the maintenance by the new or expanding emerging technology or biotechnology company of a headquarters or a base of operation in this State.

d. (Deleted by amendment, P.L.2009, c.90.)

**HISTORY:** L. 1997, c. 334, § 1, eff. Jan. 12, 1998; amended 1999, c. 140, § 2, eff. June 28, 1999; 2004, c. 65, § 18, eff. June 30, 2004; 2009, c. 90, § 29, eff. July 28, 2009.

#### NOTES:

##### Amendment Note:

2009 amendment, by Chapter 90, in the opening paragraph of b., substituted "80%" for "70%" in the first sentence, and rewrote the third and fourth sentences; deleted b.(3); in b.(4), substituted "paragraph (2)" for "paragraph (2) or (3)" and twice substituted "paragraphs (1), (2), and (5)" for "paragraphs (1), (2), (3) and (5)"; rewrote the second sentence of b.(5) and rewrote the following paragraph; inserted the paragraph of b. that begins "No application for a corporation business tax benefit transfer certificate shall be approved" (the subject matter of which was partially covered in former d.); in the next to last paragraph of b., substituted "\$15,000,000" for "\$10,000,000" in the first sentence, and rewrote the second sentence to delete reference to State fiscal year 2000; deleted the former last paragraph of b., which was identical to the second paragraph of c. except that it began "The private financial assistance shall be used to fund"; added the present last paragraph of b., pertaining to recapture; in the first sentence of c., substituted "80%" for "70%"; transferred the last paragraph of former d. to become the third paragraph of c., pertaining to a written agreement; and deleted the remainder of d., which pertained in part to criteria for approval of applications.

##### OLS Corrections:

Pursuant to *R.S.1:3-1*, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected technical errors in L. 2009, c. 90, § 29.

##### Editor's Note:

Findings, declarations relative to L. 2009, c. 90, the "New Jersey Economic Stimulus Act of 2009," which amended this section, see *52:27D-489b*.

##### Effective Dates:

Section 4 of L. 1997, c. 334 provides: "This act shall take effect immediately and sections 1 through 3 shall apply to tax years beginning on or after January 1 next following enactment." Chapter 334, L. 1997, was approved on Jan. 12, 1998.

## N.J. Stat. § 34:1B-7.42a

Section 5 of L. 1999, c. 140 provides: "This act shall take effect immediately and apply to tax years beginning on and after January 1, 1999." Chapter 140, L. 1999, was approved on June 28, 1999.

Section 27 of L. 2004, c. 65 provides: "This act shall take effect immediately; sections 1 through 17 shall apply to State fiscal years beginning July 1, 2004 and thereafter; and section 25 shall apply to qualified equipment placed in service during privilege periods beginning on or after July 1, 2004." Chapter 65, L. 2004, was approved on June 30, 2004.

Cross References:

Definitions relative to certain corporation tax benefit program, see *34:1B-7.42b*.

Authorization to approve certain transfers of tax benefits, see *34:1B-7.42c*.

Definitions, see *54:10A-4*.

Attachment of certificate to return for net operating loss carryover, see *54:10A-4.2*.

Attachment of certificate to return for research and development tax credit carryover, see *54:10A-5.24a*.



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*N.J. Stat. § 34:1B-7.42b (2013)*

§ 34:1B-7.42b. Definitions relative to certain corporation tax benefit program

As used in P.L.1997, c.334 (*C.34:1B-7.42a* et al.):

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

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies and sub-technologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge.

"Biotechnology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that is engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes.

"Full-time employee" means a person employed by a new or expanding emerging technology or biotechnology company 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 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 who is a partner of a new or expanding emerging technology or biotechnology company 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. To qualify as a "full-time employee," an employee shall also receive from the new or expanding emerging technology or biotechnology company 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 [*N.J.S.17B:27-26* et seq.] of chapter 27 of Title 17B of the New Jersey Statutes. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the new or expanding emerging technology or biotechnology company.

"New or expanding" means a technology or biotechnology company that (1) on June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L.1997, c.334 (*C.34:1B-7.42a* et al.) and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; (2) on June 30 of the year in which the company files such an application, has at least one full-time employee working in this State if the company has been incorporated for less than three years, has at least five full-time employees working in this State if the company has been incorporated for more than three years but less than five years, and has at least 10 full-time employees working in this State if the company has

been incorporated for more than five years; and (3) on the date of the exchange of the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in part (2) of this definition.

"Technology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that employs some combination of the following: highly educated or trained managers and workers, or both, employed in this State who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service.

**HISTORY:** L. 1999, c. 140, § 1, eff. June 28, 1999; amended 2009, c. 90, § 30, eff. July 28, 2009; 2010, c. 10, § 2, eff. May 5, 2010.

**NOTES:**

Amendment Note:

2009 amendment, by Chapter 90, added the definition of "Full-time employee"; in the definitions of "Biotechnology company" and "Technology company", inserted "that owns, has filed for, or has a valid license to use protected, proprietary intellectual property"; rewrote the definition of "New or expanding", which formerly read: "'New or expanding' means a technology or biotechnology company that has fewer than 225 employees, of whom 75% are New Jersey-based employees filling a position or job in this State"; and made stylistic changes.

2010 amendment, by Chapter 10, in the definition of "Biotechnology company", deleted "or a person whose headquarters or base of operations is located in this State, engaged in providing services or products necessary for such research, development, production, or provision" following "environmental purposes"; and rewrote the definition of "New or expanding", which formerly read: "'New or expanding' means a technology or biotechnology company that at the end of the calendar year prior to the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L.1997, c.334 (*C.34:1B-7.42a* et al.), on the date on which the application is submitted, and on the date on which the company receives the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; but that has at least one full-time employee working in this State if the company has been incorporated for less than three years, that has at least five full-time employees working in this State if the company has been incorporated for more than three years but less than five years, and that has at least 10 full-time employees working in this State if the company has been incorporated for more than five years."

Publisher's Note: The bracketed material was added by the Publisher to provide a reference.

Editor's Note:

Section 4 of L. 1999, c. 140 provides: "Notwithstanding any provision of P.L.1968, c.410 (*C.52:14B-1* et seq.) to the contrary, the New Jersey Economic Development Authority and the Division of Taxation in the Department of the Treasury may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the authority or division respectively deems necessary for it to implement the provisions of P.L.1999, c.140 (*C.34:1B-7.42b* et al.), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. Such regulations may thereafter be amended, adopted or readopted by the authority or the division as the authority or division deems necessary in accordance with the requirements of P.L.1968, c.410."

Effective Dates:

Section 5 of L. 1999, c. 140 provides: "This act shall take effect immediately and apply to tax years beginning on and after January 1, 1999." Chapter 140, L. 1999, was approved on June 28, 1999.

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.



LexisNexis (TM) New Jersey Annotated Statutes

\*\*\* This section is current through New Jersey 215th Legislature \*\*\*  
Second Annual Session, P.L. 2013 Chapter 61 and JR 8

TITLE 34. LABOR AND WORKERS' COMPENSATION  
CHAPTER 1B. BUSINESS AND INDUSTRY PROMOTION  
PART I. NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ACT

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*N.J. Stat. § 34:1B-7.42c (2013)*

§ 34:1B-7.42c. Authorization to approve certain transfers of tax benefits

Notwithstanding the provisions of subsection b. of section 1 of P.L.1997, c.334 (*C.34:1B-7.42a*) or the provisions of any other law, rule, or regulation to the contrary, the authority shall be authorized to approve the transfer of no more than \$ 30,000,000 of tax benefits in State Fiscal Year 2011; provided however, that of the \$ 30,000,000 of transferable tax benefits authorized for State Fiscal Year 2011, \$ 5,000,000 shall be allocated by the authority for the surrender of transferable tax benefits exclusively by new or expanding emerging technology and biotechnology companies that operate within the boundaries of an innovation zone; provided further, that any portion of the \$ 5,000,000 that is not so approved by the authority shall be available in State Fiscal Year 2011 for the surrender of transferable tax benefits by new or expanding emerging technology and biotechnology companies that do not operate within the boundaries of an innovation zone.

**HISTORY:** L. 2010, c. 20, § 1, eff. June 29, 2010.



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\*\*\* This section is current through New Jersey 215th Legislature \*\*\*  
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*N.J. Stat. § 34:1B-7.43 (2013)*

§ 34:1B-7.43. Report

Not later than one year following the effective date of this act, and for each succeeding year in which a financial assistance agreement entered into under this act is in effect, the authority shall prepare a report on the program. The report shall include, but need not be limited to, a description of the demand for the program from emerging technology and biotechnology companies and financial institutions, the efforts made by the authority to promote the program, the total amount of financial assistance approved by the authority pursuant to the program and an assessment of the effectiveness of the program in meeting the goals of this act. The authority shall submit its report to the Governor and the Legislature, including therein any recommendations for legislation to improve the effectiveness of the program.

**HISTORY:** L. 1995, c. 137, § 7.



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*N.J. Stat. § 34:1B-7.44 (2013)*

§ 34:1B-7.44. Rules, regulations

The authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1* et seq.), any rules and regulations necessary to effectuate the purposes of this act. In developing procedures and forms to be used in connection with the application for and approval of financial assistance pursuant to this act, the authority shall consider the special needs and problems of emerging technology and biotechnology companies in the State.

**HISTORY:** L. 1995, c. 137, § 8.