

ASSEMBLY, No. 5693

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 19, 2026

Sponsored by:

Assemblywoman MITCHELLE DRULIS

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Modifies certain requirements of corporation business tax benefit certificate transfer program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the corporation business tax benefit certificate
2 transfer program, and amending P.L.1997, c.334 and P.L.1999,
3 c.140.

4

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

7

8 1. Section 1 of P.L.1997, c.334 (C.34:1B-7.42a) is amended to
9 read as follows:

10 1. a. The New Jersey Economic Development Authority shall
11 establish within the New Jersey Emerging Technology and
12 Biotechnology Financial Assistance Program established pursuant
13 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business
14 tax benefit certificate transfer program to allow new or expanding
15 emerging technology and biotechnology companies in this State
16 with unused amounts of research and development tax credits
17 otherwise allowable which cannot be applied for the credit's tax
18 year due to the limitations of subsection b. of section 1 of P.L.1993,
19 c.175 (C.54:10A-5.24) and unused prior net operating loss
20 conversion carryover or net operating loss carryover pursuant to
21 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax
22 benefits for use by other corporation business taxpayers in this
23 State, provided that the taxpayer receiving the surrendered tax
24 benefits is not affiliated with a corporation that is surrendering its
25 tax benefits under the program established under P.L.1997, c.334.
26 For the purposes of this section, the test of affiliation is whether the
27 same entity directly or indirectly owns or controls five percent or
28 more of the voting rights or five percent or more of the value of all
29 classes of stock of both the taxpayer receiving the benefits and a
30 corporation that is surrendering the benefits. The tax benefits may
31 be used on the corporation business tax returns to be filed by those
32 taxpayers in exchange for private financial assistance to be provided
33 by the corporation business taxpayer that is the recipient of the
34 corporation business tax benefit certificate to assist in the funding
35 of costs incurred by the new or expanding emerging technology and
36 biotechnology company. For purposes of this subsection, a member
37 of a combined group may sell prior net operating loss conversion
38 carryover to other members of the combined group, if otherwise
39 applicable and allowable under section 2 of P.L.1997, c.334
40 (C.54:10A-4.2) and this section, provided, however, such sale of
41 prior net operating loss conversion carryover shall be made at arm's
42 length price at the same rate as though the sale was to an unrelated
43 taxpayer.

44 b. The authority, in cooperation with the Division of Taxation
45 in the Department of the Treasury, shall review and approve

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

Matter underlined thus is new matter.

1 applications by new or expanding emerging technology and
2 biotechnology companies in this State with unused but otherwise
3 allowable carryover of research and development tax credits
4 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and
5 unused but otherwise allowable prior net operating loss conversion
6 carryover or net operating loss carryover pursuant to section 4 of
7 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in
8 exchange for private financial assistance to be made by the
9 corporation business taxpayer that is the recipient of the corporation
10 business tax benefit certificate in an amount equal to at least 80
11 percent of the amount of the surrendered tax benefit, provided that
12 the amount of the surrendered tax benefit for a surrendered research
13 and development tax credit carryover is the amount of the credit,
14 and provided that the amount of the surrendered tax benefit for a
15 surrendered prior net operating loss conversion carryover or net
16 operating loss carryover is that amount for the tax year in which the
17 benefit is transferred and subsequently multiplied by the
18 corporation business tax rate provided pursuant to subsection (c) of
19 section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be
20 authorized to approve the transfer of no more than \$75,000,000 of
21 tax benefits in a State fiscal year. If the total amount of transferable
22 tax benefits requested to be surrendered by approved applicants
23 exceeds \$75,000,000 for a State fiscal year, the authority, in
24 cooperation with the Division of Taxation in the Department of the
25 Treasury, shall not be authorized to approve the transfer of more
26 than \$75,000,000 for that State fiscal year and shall allocate the
27 transfer of tax benefits by approved companies using the following
28 method:

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

32 (2) an eligible applicant with more than \$250,000 of transferable
33 tax benefits shall be authorized to surrender a minimum of
34 \$250,000 of its transferable tax benefits;

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

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

1 (5) The authority shall establish the boundaries for three
2 innovation zones to be geographically distributed in the northern,
3 central, and southern portions of this State. Of the \$75,000,000 of
4 transferable tax benefits authorized for each State fiscal year,
5 \$15,000,000 shall be allocated for the surrender of transferable tax
6 benefits exclusively by new and expanding emerging technology
7 and biotechnology companies that operate within the boundaries of
8 the innovation zones or opportunity zones, or for new and
9 expanding emerging technology and biotechnology companies that
10 are certified as a woman- or minority-owned business at the time of
11 program application, except that any portion of the \$15,000,000 that
12 is not so approved shall be available for that State fiscal year for the
13 surrender of transferable tax benefits by new and expanding
14 emerging technology and biotechnology companies that do not
15 operate within the boundaries of an innovation zone or opportunity
16 zone, or for a new and expanding emerging technology and
17 biotechnology company that is certified as a woman- or minority-
18 owned business at the time of program application.

19 If the total amount of transferable tax benefits that would be
20 authorized using the above method exceeds \$75,000,000 for a State
21 fiscal year, then the authority, in cooperation with the Division of
22 Taxation in the Department of the Treasury, shall limit the total
23 amount of tax benefits authorized to be transferred to \$75,000,000
24 by applying the above method on an apportioned basis.

25 For purposes of this section, transferable tax benefits include an
26 eligible applicant's unused but otherwise allowable prior net
27 operating loss conversion carryover or net operating loss carryover
28 determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4)
29 for the tax year in which the benefit is transferred and subsequently
30 multiplied by the corporation business tax rate as provided in
31 subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the
32 total amount of the applicant's unused but otherwise allowable
33 carryover of research and development tax credits. An eligible
34 applicant's transferable tax benefits shall be limited to net operating
35 losses and research and development tax credits that the applicant
36 requests to surrender in its application to the authority and shall not,
37 in total, exceed the maximum amount of tax benefits that the
38 applicant is eligible to surrender.

39 No application for a corporation business tax benefit transfer
40 certificate shall be approved in which the new or expanding
41 emerging technology or biotechnology company (1) has
42 demonstrated positive net operating income in any of the two
43 previous full years of ongoing operations as determined on its
44 financial statements issued according to generally accepted
45 accounting standards endorsed by the Financial Accounting
46 Standards Board; or (2) is directly or indirectly at least 50 percent
47 owned or controlled by another corporation that has demonstrated
48 positive net operating income in any of the two previous full years

1 of ongoing operations as determined on its financial statements
2 issued according to generally accepted accounting standards
3 endorsed by the Financial Accounting Standards Board or is part of
4 a consolidated group of affiliated corporations, as filed for federal
5 income tax purposes, that in the aggregate has demonstrated
6 positive net operating income in any of the two previous full years
7 of ongoing operations as determined on its combined financial
8 statements issued according to generally accepted accounting
9 standards endorsed by the Financial Accounting Standards Board.

10 For purposes of this subsection, a member of a combined group
11 may sell prior net operating loss conversion carryover to other
12 members of the combined group, if otherwise applicable and
13 allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and
14 this section, provided, however, such sale of prior net operating loss
15 conversion carryover shall be made at arm's length price at the same
16 rate as though the sale was to an unrelated taxpayer.

17 The maximum lifetime value of surrendered tax benefits that a
18 corporation shall be permitted to surrender pursuant to the program
19 is ~~【\$20,000,000】~~ \$40,000,000. Applications must be received on or
20 before June 30 of each State fiscal year.

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

33 c. The authority, in cooperation with the Division of Taxation
34 in the Department of the Treasury, shall review and approve
35 applications by taxpayers under the Corporation Business Tax Act
36 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire
37 surrendered tax benefits approved pursuant to subsection b. of this
38 section which shall be issued in the form of corporation business
39 tax benefit transfer certificates, in exchange for private financial
40 assistance to be made by the taxpayer in an amount equal to at least
41 80 percent of the amount of the surrendered tax benefit of an
42 emerging technology or biotechnology company in the State. A
43 corporation business tax benefit transfer certificate shall not be
44 issued unless the applicant certifies that as of the date of the
45 exchange of the corporation business tax benefit certificate it is
46 operating as a new or expanding emerging technology or
47 biotechnology company and has no current intention to cease

1 operating as a new or expanding emerging technology or
2 biotechnology company.

3 The managerial member of a combined group shall be the
4 member that acquires a corporation business tax benefit certificate
5 on behalf of the combined group for use on the combined return.

6 The private financial assistance shall assist in funding expenses
7 incurred in connection with the operation of the new or expanding
8 emerging technology or biotechnology company in the State,
9 including, but not limited to, the expenses of fixed assets, such as
10 the construction and acquisition and development of real estate,
11 materials, start-up, tenant fit-out, working capital, salaries, research
12 and development expenditures, and any other expenses determined
13 by the authority to be necessary to carry out the purposes of the
14 New Jersey Emerging Technology and Biotechnology Financial
15 Assistance Program.

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

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

26 e. Notwithstanding any provision of law to the contrary, if, in
27 any fiscal year, the value of transferable tax benefits transferred
28 pursuant to subsection b. of this section is less than the maximum
29 value of tax benefits that may be transferred pursuant to subsection
30 b. of this section, the authority, in consultation with the Director of
31 the Division of Taxation in the Department of the Treasury, shall
32 certify the amount of the excess value of transferable tax benefits.
33 The amount of the excess value of transferable tax benefits shall be
34 added to the cumulative total amount of tax credits authorized
35 pursuant to subsection e. of section 3 of P.L.1997, c.349 (C.54:10A-
36 5.30) and subsection d. of section 4 of P.L.2013, c.14 (C.54A:4-13)
37 for the immediately succeeding calendar year.

38 (cf: P.L.2025, c.71, s.4)

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40 2. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to
41 read as follows:

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

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

46 "Biotechnology" means the continually expanding body of
47 fundamental knowledge about the functioning of biological systems
48 from the macro level to the molecular and sub-atomic levels, as

1 well as novel products, services, technologies and sub-technologies
2 developed as a result of insights gained from research advances that
3 add to that body of fundamental knowledge. This definition may be
4 modified by regulation to conform to definitions in other programs
5 administered by the authority.

6 "Biotechnology company" means an emerging corporation that
7 has its headquarters or base of operations in this State; that owns,
8 has filed for, or has a valid license to use protected, proprietary
9 intellectual property; and that is engaged in the research,
10 development, production, or provision of biotechnology for the
11 purpose of developing or providing products or processes for
12 specific commercial or public purposes, including but not limited
13 to, medical, pharmaceutical, nutritional, and other health-related
14 purposes, agricultural purposes, and environmental purposes. This
15 definition may be modified by regulation to conform to definitions
16 in other programs administered by the authority.

17 "Clean energy product manufacturer" means the same as that
18 term is defined pursuant to section 3 of P.L.2025, c.123 (C.34:1B-
19 405).

20 "Full-time employee" means a person employed by a new or
21 expanding emerging technology or biotechnology company for
22 consideration for at least 35 hours a week, or who renders any other
23 standard of service generally accepted by custom or practice as full-
24 time employment and whose wages are subject to withholding as
25 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
26 et seq., or who is a partner of a new or expanding emerging
27 technology or biotechnology company who works for the
28 partnership for at least 35 hours a week, or who renders any other
29 standard of service generally accepted by custom or practice as full-
30 time employment, and whose distributive share of income, gain,
31 loss, or deduction, or whose guaranteed payments, or any
32 combination thereof, is subject to the payment of estimated taxes, as
33 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
34 et seq. To qualify as a "full-time employee," an employee shall also
35 receive from the new or expanding emerging technology or
36 biotechnology company health benefits under a health benefits plan
37 authorized pursuant to State or federal law. "Full-time employee"
38 shall not include any person who works as an independent
39 contractor or on a consulting basis for the new or expanding
40 emerging technology or biotechnology company.

41 "New or expanding" means a technology or biotechnology
42 company that: (1) except for a clean energy product manufacturer,
43 on June 30 of the year in which the company files an application for
44 surrender of unused but otherwise allowable tax benefits under
45 P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the date of the
46 exchange of the corporation business tax benefit certificate, has
47 fewer than 225 employees in the United States of America; (2) on
48 June 30 of the year in which the company files such an application,

1 has at least one full-time employee working in this State if the
2 company has been incorporated for less than three years, has at least
3 five full-time employees working in this State if the company has
4 been incorporated for more than three years but less than five years,
5 and has at least 10 full-time employees working in this State if the
6 company has been incorporated for more than five years; and (3) on
7 the date of the exchange of the corporation business tax benefit
8 certificate, the company has the requisite number of full-time
9 employees in New Jersey that were required on June 30 as set forth
10 in part (2) of this definition.

11 "Opportunity zone" means a federal population census tract in
12 this State that was eligible to be designated as a qualified
13 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

14 "Technology company" means a clean energy product
15 manufacturer or an emerging corporation that has its headquarters
16 or base of operations in this State; that owns, has filed for, or has a
17 valid license to use protected, proprietary intellectual property; and
18 that employs some combination of the following: highly educated
19 or trained managers and workers, or both, employed in this State
20 who use sophisticated scientific research service or production
21 equipment, processes or knowledge to discover, develop, test,
22 transfer or manufacture a product or service. This definition may
23 be modified by regulation to conform to definitions in other
24 programs administered by the authority.

25 (cf: P.L.2021, c.160, s.53)

26

27 3. This act shall take effect immediately and shall apply to tax
28 years beginning on or after January 1 of the year next following the
29 date of enactment.

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31

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STATEMENT

33

34 This bill expressly includes a clean energy product manufacturer
35 among the companies that may sell certain unused tax benefits
36 under the corporation business tax benefit certificate transfer
37 program (program) administered by the New Jersey Economic
38 Development Authority. The bill also modifies certain
39 requirements of the program.

40 Under current law, the program, which is established within the
41 New Jersey Emerging Technology and Biotechnology Financial
42 Assistance Program, allows new or expanding technology and
43 biotechnology companies in this State to sell a tax credit certificate
44 to another taxpayer. Specifically, the company may sell its unused
45 research and development tax credits or its net operating loss,
46 which may then be used by the purchasing taxpayer.

47 The bill expressly provides that a clean energy product
48 manufacturer qualifies as a technology company that may

1 participate in the program, provided that all other applicable
2 requirements are met. However, the bill exempts a clean energy
3 product manufacturer from the requirement that the company have
4 fewer than 225 employees in the United States on June 30 of the
5 year in which the company applies under the program and on the
6 date the tax benefit certificate is sold.

7 As defined in the bill, a "clean energy product manufacturer" is a
8 business engaged in the production or assembly of goods by
9 transforming raw materials or sub-components into components for
10 renewable energy, such as offshore wind, solar, geothermal, green
11 hydrogen, nuclear energy, fuel cells, battery storage, or other clean
12 energy manufacturing. "Clean energy product manufacturer" does
13 not include businesses engaged in retail, wholesale, packaging,
14 software development, resource extraction, or waste incineration.

15 Additionally, the bill raises the maximum lifetime value of tax
16 benefits that a technology or biotechnology company may sell
17 through the program from \$20 million to \$40 million.