

CHAPTER 2
GRANT PROGRAMS

Authority

P.L. 2004, c.65, §§ 1-17 and 19-23.

Source and Effective Date

R.2005 d.143, effective May 16, 2005.
See: 37 N.J.R. 237(a), 37 N.J.R. 1739(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 2, Grant Programs, expires on November 12, 2010. See: 42 N.J.R. 1495(b).

Chapter Historical Note

Chapter 2, Grant Programs, was adopted as R.1997 d.25, effective January 6, 1997. See: 28 N.J.R. 3508(a), 29 N.J.R. 145(a). Chapter 2, Grant Programs, expired on July 5, 2002.

Chapter 2, Grant Programs, was adopted as new rules by R.2002 d.286, effective September 3, 2002.

Chapter 2, Grant Programs, was repealed and adopted as new rules by R.2005 d.143, effective May 16, 2005. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

**SUBCHAPTER 1. BUSINESS RETENTION AND
RELOCATION ASSISTANCE GRANT PROGRAM**

- 12A:2-1.1 Applicability and scope
- 12A:2-1.2 Definitions
- 12A:2-1.3 Eligibility criteria
- 12A:2-1.4 Restrictions on eligibility
- 12A:2-1.5 Requests for applications
- 12A:2-1.6 Application submission requirements
- 12A:2-1.7 Review of application
- 12A:2-1.8 Determination of grant amount
- 12A:2-1.9 Bonus award
- 12A:2-1.10 Project agreement
- 12A:2-1.11 Tax credit applicable; when effective; when adjusted
- 12A:2-1.12 New business location for the project
- 12A:2-1.13 Reporting requirements and annual reports
- 12A:2-1.14 Events of default
- 12A:2-1.15 Remedies
- 12A:2-1.16 Appeals
- 12A:2-1.17 Severability

**SUBCHAPTER 1. BUSINESS RETENTION AND
RELOCATION ASSISTANCE GRANT PROGRAM**

12A:2-1.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Commerce, Economic Growth and Tourism Commission (the "Commission") to implement P.L. 1996, c.25, as substantially amended by P.L. 2004, c.65 §§ 1 through 16 (the "Act"). The Act provides several incentive programs aimed at retaining in New Jersey the full-time jobs of businesses already active in this State. The Act established a business retention and relocation assistance grant program ("BRRAG Program" or "Program"), a tax credit certificate

transfer program, a sales and use tax exemption program, and an energy sales tax exemption program (for businesses located in New Jersey urban enterprise zones). The BRRAG Program is hereby established as a Program under the jurisdiction of the Commission and shall be administered by the Chief Executive Officer and Secretary of the Commission. The purpose of the Program is to encourage economic development and to preserve jobs that currently exist in New Jersey, but which are in danger of being relocated to premises outside of the State. To implement that purpose, and to the extent that funding for the Program is available, the Program may provide grants of tax credits but in no case shall the amount of an individual grant of tax credits exceed the limitations set forth in this subchapter and further specified in the project agreement of an applicant for a grant of tax credits.

12A:2-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the Business Retention and Relocation Assistance Act, P.L. 2004, c.65.

"Advanced computing" means a technology used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand-held calculators to super computers, and peripheral equipment.

"Advanced computing company" means a person with a headquarters or a base of operations located in New Jersey and engaged in the research, development, production, or provision of advanced computing for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials.

"Advanced materials company" means a person with headquarters or base of operations located in New Jersey and engaged in the research, development, production, or provision of advanced materials for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Agreement" or "project agreement" means an agreement between a business and the Commission that sets the forecasted schedule for completion and occupancy of the project, the date the commitment duration shall commence, the amount of the applicable grant of tax credits, and other such provisions which further the purposes of P.L. 1996, c.25, as

amended by P.L. 2004 c.65 §§ 1 through 16 (N.J.S.A. 34:1B-112 through 123.).

“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 with a headquarters or a base of operations located in New Jersey and engaged in the research, development, production, or provision or 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 with a headquarters or a base of operations located in New Jersey and engaged in providing services or products necessary for such research, development, production, or provision.

“Board of Directors” means the Board of Directors for the New Jersey Commerce, Economic Growth and Tourism Commission.

“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 to the program and which is subject to the provisions of N.J.S.A. 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, such as a group of organizations under common control as defined in Section 414(b) or (c) of the Internal Revenue Code of 1986 and Federal Treasury regulations thereunder. For purposes of identifying full-time employees in eligible positions and retained State tax revenue, any such employees hired by or taxes paid by a professional employer organization (PEO) with which the business has entered into an employee leasing agreement shall be allocable to the business.

“Business employment incentive program grant” or “BEIP grant” means the grant made to a business by the New Jersey Economic Development Authority pursuant to the provisions of P.L. 1996, c.26 (N.J.S.A. 34:1B-124 et al).

“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 (N.J.S.A. 54:10A-5) or credits against the taxes imposed on insurers pursuant to P.L. 1945, c.132 (N.J.S.A. 54:18A-1 et seq.), section 1 of P.L. 1950, c.231 (N.J.S.A. 17:32-15), and

N.J.S.A. 17B:23-5, provided to fund a portion of retention and relocation costs pursuant to P.L. 1996, c.25 (N.J.S.A. 34:1B-112 et seq.), as amended by P.L. 2004, c.65, and pursuant to this subchapter.

“Commission” means the New Jersey Commerce, Economic Growth and Tourism Commission established pursuant to N.J.S.A. 52:27C-61 et seq.

“Commitment duration” means five years from the date specified in the project agreement entered into pursuant to section 5 of P.L. 1996, c.25 (N.J.S.A. 34:1B-116), as amended by P.L. 2004, c.65, and pursuant to this subchapter.

“Designated industry” means a business engaged in the field of biotechnology, pharmaceuticals, manufacturing, financial services or transportation and logistics, advanced computing, advanced materials, electronic device technology, environmental technology or medical device technology.

“Designated urban center” means an urban center designated in the State Development and Redevelopment Plan adopted by the State Planning Commission, pursuant to P.L. 1985, c.398 (N.J.S.A. 52:18A-200).

“Director” means the Director of the Division of Taxation in the Department of the Treasury.

“Electronic device technology” means a technology involving microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices.

“Electronic device technology company” means a person with a headquarters or a base of operations located in New Jersey and engaged in the research, development, production, or provision of electronic device technology for the purpose of developing or providing products or processes for specific commercial or public purposes.

“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 (N.J.S.A. 17B:27-54), a health benefits plan as defined under section 1 of P.L. 1992, c.162 (N.J.S.A. 17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of Title 17B of the New Jersey Statutes.

“Fiscal year” means the State fiscal year of July 1 to June 30.

“Full-time employee” means a person who is employed 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, whose wages are subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., and who is determined by the Secretary to be employed in a permanent position according