

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 34:1B-124 et seq (Business Employment Incentive Program--EDA)

LAWS OF: 1996 CHAPTER: 26

BILL NO: A1415

SPONSOR(S): Azzolina

DATE INTRODUCED: January 29, 1996

COMMITTEE: ASSEMBLY: Appropriations
SENATE: Budget

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: February 8, 1996
SENATE: March 21, 1996

DATE OF APPROVAL: May 9, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: YES

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

For background see:

- 974.90 New Jersey. Legislature. Assembly. Task Force on Business
E19 Retention, Expansion & Export Opportunities.
1994a A new tide of change: blueprint for growth. August 15, 1994.
Trenton, 1994.
- 974.90 New Jersey. Legislature. Assembly. Task Force on Business
E19 Retention, Expansion & Export Opportunities.
1994b A new tide of change: blueprint for growth. Executive
Summary. August, 1994. Trenton, 1994.
- 974.90 New Jersey. Legislature. Assembly. Task Force on Business.
E19 Retention, Expansion & Export Opportunities.
1994e Meetings held 3-29-94, 5-18-94, 6-14-94, Warren, Trenton,
1994.
- 974.90 New Jersey. Economic Master Plan Commission.
E19 Short and long term recommendations for economic improvement.
1994g 1994.

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§§1-15,17
C.34:1B-124
To
34:1B-139
§19
Note To §18

P.L. 1996, CHAPTER 26, *approved May 9, 1996*
Assembly No. 1415 (*Second Reprint*)

1 AN ACT creating ²[the "Business Employment Incentive Program,"]
2 business employment incentives through a grant agreement program
3 and an exemption under the sales and use tax for certain sales of
4 machinery, apparatus and equipment used in the production or
5 transmission of radio or television information,² amending and
6 supplementing P.L.1974, c.80 ², amending P.L.1980, c.105,² and
7 making an appropriation therefor.

8
9 **BE IT ENACTED** by the Senate and General Assembly of the State
10 of New Jersey:

11
12 1. (New section) ²[This] Sections 1 through 17 of this² act shall
13 be known and may be cited as the "Business Employment Incentive
14 Program Act."

15
16 2. (New section) As used in ²sections 1 through 17 of² this act,
17 unless a different meaning clearly appears from the context:

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

20 "Base years" means the first two complete calendar years following
21 the effective date of an agreement;

22 "Business" means a corporation; sole proprietorship; partnership;
23 corporation that has made an election under Subchapter S of Chapter
24 One of Subtitle A of the Internal Revenue Code of 1986, or any other
25 business entity through which income flows as a distributive share to
26 its owners; limited liability company; nonprofit corporation; or any
27 other form of business organization located either within or outside
28 this State ², including a cooperative association². A grant received
29 under this act by a partnership, Subchapter S-Corporation, or other
30 such business entity shall be apportioned among the persons to whom
31 the income or profit of the partnership, Subchapter S-Corporation, or
32 other entity is distributed, in the same proportions as those in which
33 the income or profit is distributed ². "Cooperative association" shall
34 include financial, stock or commodities exchanges² ;

35 "Business employment incentive agreement" or "agreement" means

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted January 29, 1996.

² Senate SBA committee amendments adopted March 18, 1996.

1 the written agreement between the authority and a business proposing
2 ²[to create new jobs] a project² in this State in accordance with the
3 provisions of this act which establishes the terms and conditions of a
4 grant to be awarded pursuant to this act;

5 "Department" means the Department of Commerce and Economic
6 Development;

7 "Director" means the Director of the Division of Taxation;

8 "Division" means the Division of Taxation in the Department of the
9 Treasury;

10 "Eligible position" is a new full time position created by a business
11 in New Jersey or transferred from another state by the business under
12 the terms and conditions set forth in this act during the base years or
13 in subsequent years of a grant ¹. In determining if positions are
14 eligible positions, the authority shall give greater consideration to
15 positions that average at least 1.5 times the minimum ²hourly² wage
16 during the term of an agreement authorized pursuant to this act¹;

17 "Employment incentive" means the amount of a grant determined
18 pursuant to subsection a. of section 6 of this act;

19 "Full time employee" means a person who is employed for
20 consideration for at least 35 hours a week, or who renders any other
21 standard of service generally accepted by custom or practice as
22 full-time employment, whose wages are subject to withholding as
23 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
24 et seq., and who is determined by the authority to be employed in a
25 permanent position according to criteria it develops. "Full time
26 employee" shall not include any person who works as an independent
27 contractor or on a consulting basis for the business;

28 "Grant" means a business employment incentive grant as established
29 in this act;

30 "New employee" means a full time employee first employed in an
31 eligible position on the project which is the subject of an agreement.
32 An out-of-state resident or a resident of New Jersey who is employed
33 outside New Jersey by the business and whose position is relocated to
34 New Jersey after the execution of the agreement may be classified as
35 a new employee when his position is relocated to New Jersey and his
36 wages are subject to withholding as provided in the "New Jersey Gross
37 Income Tax Act," N.J.S.54A:1-1 et seq.; except that such a New
38 Jersey resident shall not be classified as a "new employee" unless his
39 wages, prior to the relocation, were subject to income taxes imposed
40 by the state or municipality in which the position was previously
41 located. "New employee" may also include an employee rehired or
42 called back from a layoff during or following the base years to a
43 vacant position previously held by that employee or to a new position
44 established during or following the base years. "New employee" shall
45 not include any employee who was previously employed in New Jersey
46 by the business or by a related person as defined in section 2 of

1 P.L.1993, c.170 (C.54:10A-5.5) if the employee is transferred to the
2 business which is the subject of an agreement unless the employee's
3 position at his previous employer is filled by a new employee. "New
4 employee" also shall not include a child, grandchild, parent or spouse
5 of an individual associated with the business who has direct or indirect
6 ownership of at least 15% of the profits, capital, or value of the
7 business;

8 "Targeted area" means a qualifying municipality as defined in
9 P.L.1978, c.14 (C.52:27D-178); and

10 "Withholdings" means the amount withheld by a business from the
11 wages of new employees pursuant to the "New Jersey Gross Income
12 Tax Act," N.J.S.54A:1-1 et seq.

13

14 3. (New section) There is established the Business Employment
15 Incentive Program to be administered by the New Jersey Economic
16 Development Authority. In order to foster job creation in this State,
17 the authority may enter into agreements with businesses to provide
18 business employment incentive grants in accordance with the
19 provisions of this act if it finds that:

20 a. The project proposed by the business will create, during the term
21 of the agreement, a net increase in employment by the business and its
22 related persons, as defined in section 2 of P.L.1993, c.170
23 (C.54:10A-5.5), in the State as provided in section 4 of this act;

24 b. The project is economically sound and will benefit the people of
25 New Jersey by increasing opportunities for employment and by
26 strengthening New Jersey's economy; and

27 c. The authority determines that the receipt of the business
28 employment incentive grant will be a material factor in the business'
29 decision to go forward with the project.

30

31 4. (New section) a. A business may apply to the authority for a
32 grant for any project which:

33 (1) Will create at least 75 eligible positions in the base years; or

34 (2) Will create at least 25 eligible positions in a targeted area in the
35 base years.

36 b. In the case of a business which is a landlord, the business may
37 apply to the authority for a grant for any project in which:

38 (1) (a) At least 75 eligible positions are created in the base years;

39 or

40 (b) At least 25 eligible positions are created in a targeted area in
41 the base years; and

42 (2) The tenants or proposed tenants have agreed to assign to the
43 landlord any claim of right that they may have to a grant provided by
44 this act; and

45 (3) The tenant or proposed tenants have agreed to cooperate with
46 the landlord in annually providing to the authority the number of new

1 employees in eligible positions, the withholdings and any other
2 information which may be required by the authority.

3 c. A project which consists solely of point-of-final-purchase retail
4 facilities shall not be eligible for a grant under this act. If a project
5 consists of both point-of-final-purchase retail facilities and non-retail
6 facilities, only the portion of the project consisting of non-retail
7 facilities shall be eligible for a grant, and only the withholdings from
8 new employees which are employed in the portion of the project which
9 represents non-retail facilities shall be used to determine the amount
10 of the grant. If a warehouse facility is part of a point-of-final purchase
11 retail facility and supplies only that facility, the warehouse facility shall
12 not be eligible for a grant. For the purposes of this act, catalog
13 distribution centers shall not be considered point-of-final-purchase
14 retail facilities.

15
16 5. (New section) A business shall apply to the authority for a grant
17 on a form prescribed by the authority which shall include:

18 a. The name of the business, the proposed location of the project,
19 and the type of activity which will be engaged in at the project site;

20 b. The names and addresses of the principals or management of the
21 business, and the nature of the form of business organization under
22 which it is operated;

23 c. The most recent financial statement of the business;

24 d. The number of eligible positions proposed to be created during
25 the base years and thereafter; and

26 e. An estimate of the total withholdings.

27 ²A cooperative association may apply, in one consolidated
28 application in a form and manner determined by the authority, for a
29 grant on its own behalf as a business and for grants on behalf of the
30 members of the association who may qualify under this act.

31 If a cooperative association is applying for grants on behalf of its
32 members, the members for whom the application is submitted shall
33 assign to the association any claim of right the members may have
34 under this act to apply for grants individually during the term of the
35 business employment incentive agreement, and agree to cooperate with
36 the association in providing to the authority all the information
37 required for the initial application, the business employment incentive
38 agreement, and any other information the authority may require for
39 the purposes of this act. The cooperative association shall be
40 responsible for providing to the authority all the information required
41 under this act.

42 If a cooperative association applies for a grant on behalf of its
43 members, the members included in the application may be permitted
44 to meet the qualifications for a grant collectively by participating in a
45 project that will meet the requirements of section 3 and 4 of this act,
46 the amount of a grant shall be calculated under the terms of this act as

1 if the members are all collectively one business entity, and any
2 restrictions on the qualification for a grant shall apply to each member
3 who is listed in the application as participating in the project. The
4 grants awarded shall be paid to the cooperative association. A grant
5 received under this act by a cooperative association may be
6 apportioned to the members of the association in a manner determined
7 by the association. Each member included in the application shall be
8 required to sign the business employment incentive agreement and
9 shall abide by its terms.²

10

11 6. (New section) a. The amount of the employment incentive
12 awarded as a grant in each case shall be not less than 10% and not
13 more than 80% of the withholdings of the business, and shall be
14 subject to the provisions of sections 10 and 11 of this act. The
15 employment incentive shall be based on criteria developed by the
16 authority after considering the following:

17 (1) The number of eligible positions to be created;

18 (2) The expected duration of those positions;

19 (3) The type of contribution the business can make to the
20 long-term growth of the State's economy;

21 (4) The amount of other financial assistance the business will
22 receive from the State for the project; and

23 (5) The total dollar investment the business is making in the
24 project.

25 b. The term of the grant shall not exceed 10 years.

26 c. At the discretion of the authority, the grant may apply only to
27 new employees in eligible positions created during the base years, or
28 to additional new employees in eligible positions created during the
29 remainder of the term of the grant.

30

31 7. (New section) The business employment incentive agreement
32 shall include, but shall not be limited to, the following:

33 a. A detailed description of the proposed project which will result
34 in job creation, and the number of new employees to be hired in the
35 base years;

36 b. The term of the grant, and the first year for which the grant may
37 be claimed;

38 c. The new employees whose positions are subjects of the grant,
39 pursuant to subsection c. of section 6 of this act;

40 d. A requirement that the applicant maintain the project at a
41 location in New Jersey for at least 1.5 times the number of years of the
42 term of the grant, with at least the number of eligible positions as
43 required by section 4 of this act;

44 e. The employment incentive, as determined pursuant to subsection
45 a. of section 6 of this act;

46

f. A method for determining the number of new employees who are

- 1 employed during a grant year;
- 2 g. A method for the business to report annually to the authority the
3 number of new employees for which the grant is to be made;
- 4 h. A requirement that the business report to the authority annually
5 the aggregate amount of withholdings during the grant year;
- 6 i. A provision permitting an audit of the payroll records of the
7 business by the authority from time to time, as the authority deems
8 necessary;
- 9 j. A provision which permits the authority to amend an agreement
10 pursuant to section 9 of this act;
- 11 k. A provision which requires the business to maintain operations
12 at the project location or another location approved by the authority
13 for at least 1.5 times the term of the grant, and a provision to permit
14 the authority to recapture all or part of the grant at its discretion if the
15 business does not remain at the site for the required term; and
- 16 l. A provision establishing the conditions under which the grant
17 agreement may be terminated and grant funds recaptured by the
18 authority.
- 19
- 20 8. (New section) a. No later than February 1 of each year, for the
21 preceding grant year, every business which is awarded a grant under
22 this act shall submit to the authority a copy of its applicable New
23 Jersey tax return showing business income and withholdings as a
24 condition of its continuation in the grant program, together with an
25 annual payroll report showing (1) the eligible positions which are
26 created during the base years and (2) the new eligible positions created
27 during each subsequent year of the grant.
- 28 b. The division may require by regulation any information which it
29 deems necessary to effectuate the provisions of this act.
- 30 c. The authority may cause an audit of any business receiving a
31 grant to be conducted at any time.
- 32
- 33 9. (New section) a. If the business receiving a grant fails to meet
34 or comply with any condition or requirement set forth in a grant
35 agreement or in rules and regulations of the authority or the division,
36 the authority may amend the agreement to reduce the amount of the
37 employment incentive or the term of the grant agreement. The
38 reduction of the employment incentive shall be applicable to the grant
39 year immediately following the grant year in which the authority
40 amends the agreement.
- 41 b. If a business fails to maintain employment at the levels stipulated
42 in the agreement or otherwise fails to comply with any condition of the
43 grant agreement for any two consecutive years, the authority may
44 terminate the agreement.
- 45
- 46 10. (New section) No amount shall be disbursed to a recipient

1 business as a grant under this act in any year until the State Treasurer
2 has certified that the amount of withholdings received in that year by
3 the division from the business equals or exceeds the amount of the
4 grant.

5
6 11. (New section) a. A business that is receiving a business
7 relocation grant pursuant to the provisions of P.L. , c. (C.)(now
8 before the Legislature as Senate Bill No. 2390 (1R) or Assembly Bill
9 No. 3202 (1R) of 1995) shall not be eligible to receive a grant under
10 this act except upon the approval of the State Treasurer.

11 b. A business that is receiving any other grant by operation of State
12 law shall not receive an amount as a grant pursuant to this act which,
13 when combined with such other grants, exceeds 80% of its
14 withholdings, except upon the approval of the State Treasurer.
15 Amounts received as grants from the Office of Customized Training
16 pursuant to the "1992 New Jersey Employment and Workforce
17 Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.) shall be
18 excluded from the calculation of the total amount permitted under this
19 subsection.

20

21 12. (New section) The department shall conduct a study to
22 determine the minimum funding level required to implement the
23 Business Employment Incentive Program successfully. Major
24 consideration shall be given to the rate of return for each job created
25 as a result of business employment incentive grants.

26

27 13. (New section) The authority shall establish an application fee
28 for a grant application and service fees payable by each business which
29 is a grant recipient to pay the costs of the administration of the
30 program.

31

32 14. (New section) The New Jersey Economic Development
33 Authority, after consultation with the Department of Commerce and
34 Economic Development and the Division of Taxation, shall, in
35 accordance with the "Administrative Procedure Act," P.L.1968, c.410
36 (C.52:14B-1 et seq.), adopt rules necessary to implement the
37 provisions of the Business Employment Incentive Program not related
38 to the collection or determination of taxes and tax withholding. The
39 rules shall provide for the recipients of business employment incentive
40 grants to be charged an initial application fee, and ongoing service
41 fees, to cover the administrative costs related to the program. ²The
42 rules also shall include the procedures to clarify the application of the
43 various provisions of this act to cooperative associations that submit
44 applications on behalf of their members.² The Director of the Division
45 of Taxation is authorized to promulgate those rules necessary to
46 effectuate the tax related provisions of the Business Employment

1 Incentive Program.

2

3 15. (New section) The Department of Commerce and Economic
4 Development shall submit a report on the Business Employment
5 Incentive Program to the Governor, President of the Senate, and
6 Speaker of the General Assembly on or before October 31 of each
7 year. The report shall include information on the number of
8 agreements entered into during the preceding fiscal year, a description
9 of the project under each agreement, the number of jobs created, new
10 income tax revenue received from withholdings, amounts awarded as
11 grants and an update on the status of projects under agreement before
12 the preceding fiscal year. After the program's fifth year, the
13 department, in conjunction with the State Treasurer, shall assess the
14 effectiveness of the program in creating new jobs in New Jersey and
15 the impact on State revenues. The department shall submit a final
16 report to the Governor, Senate President, and Speaker of the General
17 Assembly on or before January 1, 2000.

18

19 16. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as
20 follows:

21 5. The authority shall have the following powers:

22 a. To adopt bylaws for the regulation of its affairs and the conduct
23 of its business;

24 b. To adopt and have a seal and to alter the same at pleasure;

25 c. To sue and be sued;

26 d. To acquire in the name of the authority by purchase or
27 otherwise, on such terms and conditions and such manner as it may
28 deem proper, or by the exercise of the power of eminent domain in the
29 manner provided by the Eminent Domain Act of 1971, P.L.1971,
30 c.361 (C.20:3-1 et seq.), any lands or interests therein or other
31 property which it may determine is reasonably necessary for any
32 project; provided, however, that the authority shall not take by
33 exercise of the power of eminent domain any real property except
34 upon consent thereto given by resolution of the governing body of the
35 municipality in which such real property is located; and provided
36 further that the authority shall be limited in its exercise of the power
37 of eminent domain to municipalities receiving State aid under the
38 provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to
39 municipalities which had a population, according to the latest federal
40 decennial census, in excess of 10,000;

41 e. To enter into contracts with a person upon such terms and
42 conditions as the authority shall determine to be reasonable, including,
43 but not limited to, reimbursement for the planning, designing,
44 financing, construction, reconstruction, improvement, equipping,
45 furnishing, operation and maintenance of the project and to pay or
46 compromise any claims arising therefrom;

- 1 f. To establish and maintain reserve and insurance funds with
2 respect to the financing of the project;
- 3 g. To sell, convey or lease to any person all or any portion of a
4 project, for such consideration and upon such terms as the authority
5 may determine to be reasonable;
- 6 h. To mortgage, pledge or assign or otherwise encumber all or any
7 portion of a project or revenues, whenever it shall find such action to
8 be in furtherance of the purposes of this act;
- 9 i. To grant options to purchase or renew a lease for any of its
10 projects on such terms as the authority may determine to be
11 reasonable;
- 12 j. To contract for and to accept any gifts or grants or loans of
13 funds or property or financial or other aid in any form from the United
14 States of America or any agency or instrumentality thereof, or from
15 the State or any agency, instrumentality or political subdivision
16 thereof, or from any other source and to comply, subject to the
17 provisions of the act, with the terms and conditions thereof;
- 18 k. In connection with any application for assistance under this act
19 or commitments therefor, to require and collect such fees and charges
20 as the authority shall determine to be reasonable;
- 21 l. To adopt, amend and repeal regulations to carry out the
22 provisions of this act;
- 23 m. To acquire, purchase, manage and operate, hold and dispose of
24 real and personal property or interests therein, take assignments of
25 rentals and leases and make and enter into all contracts, leases,
26 agreements and arrangements necessary or incidental to the
27 performance of its duties;
- 28 n. To purchase, acquire and take assignments of notes, mortgages
29 and other forms of security and evidences of indebtedness;
- 30 o. To purchase, acquire, attach, seize, accept or take title to any
31 project by conveyance or by foreclosure, and sell, lease, manage or
32 operate any project for a use specified in this act;
- 33 p. To borrow money and to issue bonds of the authority and to
34 provide for the rights of the holders thereof, as provided in this act;
- 35 q. To extend credit or make loans to any person for the planning,
36 designing, acquiring, constructing, reconstructing, improving,
37 equipping and furnishing of a project, which credits or loans may be
38 secured by loan and security agreements, mortgages, leases and any
39 other instruments, upon such terms and conditions as the authority
40 shall deem reasonable, including provision for the establishment and
41 maintenance of reserve and insurance funds, and to require the
42 inclusion in any mortgage, lease, contract, loan and security agreement
43 or other instrument, such provisions for the construction, use,
44 operation and maintenance and financing of a project as the authority
45 may deem necessary or desirable;
- 46 r. To guarantee up to 90% of the amount of a loan to a person, if

1 the proceeds of the loan are to be applied to the purchase and
2 installation, in a building devoted to industrial or commercial
3 purposes, or in an office building, of an energy improvement system;

4 s. To employ consulting engineers, architects, attorneys, real estate
5 counselors, appraisers, and such other consultants and employees as
6 may be required in the judgment of the authority to carry out the
7 purposes of the act, and to fix and pay their compensation from funds
8 available to the authority therefor, all without regard to the provisions
9 of Title ~~11, Civil Service,~~11A of the ~~Revised~~ New Jersey Statutes;

10 t. To do and perform any acts and things authorized by this act
11 under, through or by means of its own officers, agents and employees,
12 or by contract with any person;

13 u. To procure insurance against any losses in connection with its
14 property, operations or assets in such amounts and from such insurers
15 as it deems desirable;

16 v. To do any and all things necessary or convenient to carry out its
17 purposes and exercise the powers given and granted in the act;

18 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
19 maintain or repair or provide for the construction, reconstruction,
20 improvement, alteration, equipping or maintenance or repair of any
21 development property and lot, award and enter into construction
22 contracts, purchase orders and other contracts with respect thereto,
23 upon such terms and conditions as the authority shall determine to be
24 reasonable, including, but not limited to, reimbursement for the
25 planning, designing, financing, construction, reconstruction,
26 improvement, equipping, furnishing, operation and maintenance of any
27 such development property and the settlement of any claims arising
28 therefrom and the establishment and maintenance of reserve funds with
29 respect to the financing of such development property; ~~and~~

30 x. When authorized by the governing body of a municipality
31 exercising jurisdiction over an urban growth zone, to construct, cause
32 to be constructed or to provide financial assistance to projects in an
33 urban growth zone which shall be exempt from the terms and
34 requirements of the land use ordinances and regulations, including, but
35 not limited to, the master plan and zoning ordinances, of such
36 municipality; and

37 y. To enter into business employment incentive agreements as
38 provided in the "Business Employment Incentive Program Act."
39 P.L. c. (C.)(now before the Legislature as this bill).

40 (cf: P.L.1983, c.282, s.3)

41

42 17. ²~~For the fiscal year beginning July 1, 1995, there~~ There ² is
43 appropriated to the New Jersey Economic Development Authority
44 from the General Fund such sums as may be necessary to fund the
45 Business Employment Incentive Program established by this act, the
46 amount of which shall not exceed the total amount of revenues

1 received as withholdings, as defined in section 2 of P.L. , c. (C.)
2 (now before the Legislature as this bill) from all businesses receiving
3 grants pursuant to this act, as certified by the Director of the Division
4 of Taxation.

5

6 ²18. Section 25 of P.L.1980, c.105 (C.54:32B-8.13) is amended to
7 read as follows:

8 25. Receipts from the following are exempt from the tax imposed
9 under the Sales and Use Tax Act:

10 a. Sales of machinery, apparatus or equipment for use or
11 consumption directly and primarily in the production of tangible
12 personal property by manufacturing, processing, assembling or
13 refining;

14 b. Sales of machinery, apparatus or equipment for use or
15 consumption directly and primarily in the production, generation,
16 transmission or distribution of gas, electricity, refrigeration, steam or
17 water for sale or in the operation of sewerage systems;

18 c. Sales of telephones, telephone lines, cables, central office
19 equipment or station apparatus, or other machinery, equipment or
20 apparatus, or comparable telegraph equipment to a service provider
21 subject to the jurisdiction of the Board of Public Utilities or the
22 Federal Communications Commission, for use directly and primarily
23 in receiving at destination or initiating, transmitting and switching
24 telephone, telegraph or interactive telecommunications service for sale
25 to the general public;

26 d. Sales of machinery, apparatus, equipment, building materials,
27 or structures or portions thereof, used directly and primarily for
28 cogeneration in a cogeneration facility. As used in this subsection,
29 "cogeneration facility" means a facility the primary purpose of which
30 is the sequential production of electricity and steam or other forms of
31 useful energy which are used for industrial or commercial heating or
32 cooling purposes and which is designated by the Federal Energy
33 Regulatory Commission, or its successor, as a "qualifying facility"
34 pursuant to the provisions of the "Public Utility Regulatory Policies
35 Act of 1978," Pub. L. 95-617. The Director of the Office of Energy
36 in the Department of Environmental Protection, in consultation with
37 the Director of the Division of Taxation, shall adopt, pursuant to the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.), rules and regulations establishing technical specifications for
40 eligibility for the exemption provided in this subsection;

41 e. Sales of machinery, apparatus or equipment including
42 transponders, earth stations, microwave dishes, transmitters and
43 receivers which have a useful life exceeding one year, other than that
44 used in the construction or operation of towers, to a commercial
45 broadcaster operating under a broadcasting license issued by the
46 Federal Communications Commission or to a provider of

1 cable/satellite television program services who may or may not operate
2 under a broadcasting license issued by the Federal Communications
3 Commission for use or consumption directly and primarily in the
4 production or transmission of radio or television [broadcasts]
5 information transmitted, delivered or archived through any medium or
6 method.

7 The exemptions granted under this section shall not be construed
8 to apply to sales, otherwise taxable, of machinery, equipment or
9 apparatus whose use is incidental to the activities described in
10 subsections a., b., c., d. and e. of this section.

11 The exemptions granted in this section shall not apply to motor
12 vehicles or to parts with a useful life of one year or less or tools or
13 supplies used in connection with the machinery, equipment or
14 apparatus described in this section.²

15 (cf: P.L.1995, c.317, s.1)

16

17 ²[18.] 19.² This act shall take effect immediately ²provided
18 however that section 18 shall remain inoperative until the first day of
19 the first month following enactment².

20

21

22

23

24 Creates employment incentives through grant program and sales and
25 use tax exemption; appropriates General Fund revenues.

L. 1996, c. 26
App. 5/9/96

[Second Reprint]
ASSEMBLY, No. 1415

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1996

By Assemblymen AZZOLINA, GEIST, Malone, Asselta,
LeFevre, Blee and Assemblywoman Allen

1 AN ACT creating ²[the "Business Employment Incentive Program,"]
2 business employment incentives through a grant agreement program
3 and an exemption under the sales and use tax for certain sales of
4 machinery, apparatus and equipment used in the production or
5 transmission of radio or television information.² amending and
6 supplementing P.L.1974, c.80 ², amending P.L.1980, c.105.² and
7 making an appropriation therefor..
8

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

11
12 1. (New section) ²[This] Sections 1 through 17 of this² act shall
13 be known and may be cited as the "Business Employment Incentive
14 Program Act."
15

16 2. (New section) As used in ²sections 1 through 17 of² this act,
17 unless a different meaning clearly appears from the context:

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

20 "Base years" means the first two complete calendar years following
21 the effective date of an agreement;

22 "Business" means a corporation; sole proprietorship; partnership;
23 corporation that has made an election under Subchapter S of Chapter
24 One of Subtitle A of the Internal Revenue Code of 1986, or any other
25 business entity through which income flows as a distributive share to
26 its owners; limited liability company; nonprofit corporation; or any
27 other form of business organization located either within or outside
28 this State ², including a cooperative association². A grant received
29 under this act by a partnership, Subchapter S-Corporation, or other
30 such business entity shall be apportioned among the persons to whom

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted January 29, 1996.

² Senate SBA committee amendments adopted March 18, 1996.

1 the income or profit of the partnership, Subchapter S-Corporation, or
2 other entity is distributed, in the same proportions as those in which
3 the income or profit is distributed ². "Cooperative association" shall
4 include financial, stock or commodities exchanges² ;

5 "Business employment incentive agreement" or "agreement" means
6 the written agreement between the authority and a business proposing
7 ²[to create new jobs] a project² in this State in accordance with the
8 provisions of this act which establishes the terms and conditions of a
9 grant to be awarded pursuant to this act;

10 "Department" means the Department of Commerce and Economic
11 Development;

12 "Director" means the Director of the Division of Taxation;

13 "Division" means the Division of Taxation in the Department of the
14 Treasury;

15 "Eligible position" is a new full time position created by a business
16 in New Jersey or transferred from another state by the business under
17 the terms and conditions set forth in this act during the base years or
18 in subsequent years of a grant ¹. In determining if positions are
19 eligible positions, the authority shall give greater consideration to
20 positions that average at least 1.5 times the minimum ²hourly² wage
21 during the term of an agreement authorized pursuant to this act¹;

22 "Employment incentive" means the amount of a grant determined
23 pursuant to subsection a. of section 6 of this act;

24 "Full time employee" means a person who is employed for
25 consideration for at least 35 hours a week, or who renders any other
26 standard of service generally accepted by custom or practice as
27 full-time employment, whose wages are subject to withholding as
28 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
29 et seq., and who is determined by the authority to be employed in a
30 permanent position according to criteria it develops. "Full time
31 employee" shall not include any person who works as an independent
32 contractor or on a consulting basis for the business;

33 "Grant" means a business employment incentive grant as established
34 in this act;

35 "New employee" means a full time employee first employed in an
36 eligible position on the project which is the subject of an agreement.
37 An out-of-state resident or a resident of New Jersey who is employed
38 outside New Jersey by the business and whose position is relocated to
39 New Jersey after the execution of the agreement may be classified as
40 a new employee when his position is relocated to New Jersey and his
41 wages are subject to withholding as provided in the "New Jersey Gross
42 Income Tax Act," N.J.S.54A:1-1 et seq.; except that such a New
43 Jersey resident shall not be classified as a "new employee" unless his
44 wages, prior to the relocation, were subject to income taxes imposed
45 by the state or municipality in which the position was previously
46 located. "New employee" may also include an employee rehired or

1 called back from a layoff during or following the base years to a
2 vacant position previously held by that employee or to a new position
3 established during or following the base years. "New employee" shall
4 not include any employee who was previously employed in New Jersey
5 by the business or by a related person as defined in section 2 of
6 P.L.1993, c.170 (C.54:10A-5.5) if the employee is transferred to the
7 business which is the subject of an agreement unless the employee's
8 position at his previous employer is filled by a new employee. "New
9 employee" also shall not include a child, grandchild, parent or spouse
10 of an individual associated with the business who has direct or indirect
11 ownership of at least 15% of the profits, capital, or value of the
12 business;

13 "Targeted area" means a qualifying municipality as defined in
14 P.L.1978, c.14 (C.52:27D-178); and

15 "Withholdings" means the amount withheld by a business from the
16 wages of new employees pursuant to the "New Jersey Gross Income
17 Tax Act," N.J.S.54A:1-1 et seq.

18

19 3. (New section) There is established the Business Employment
20 Incentive Program to be administered by the New Jersey Economic
21 Development Authority. In order to foster job creation in this State,
22 the authority may enter into agreements with businesses to provide
23 business employment incentive grants in accordance with the
24 provisions of this act if it finds that:

25 a. The project proposed by the business will create, during the term
26 of the agreement, a net increase in employment by the business and its
27 related persons, as defined in section 2 of P.L.1993, c.170
28 (C.54:10A-5.5), in the State as provided in section 4 of this act;

29 b. The project is economically sound and will benefit the people of
30 New Jersey by increasing opportunities for employment and by
31 strengthening New Jersey's economy; and

32 c. The authority determines that the receipt of the business
33 employment incentive grant will be a material factor in the business'
34 decision to go forward with the project.

35

36 4. (New section) a. A business may apply to the authority for a
37 grant for any project which:

38 (1) Will create at least 75 eligible positions in the base years; or

39 (2) Will create at least 25 eligible positions in a targeted area in the
40 base years.

41 b. In the case of a business which is a landlord, the business may
42 apply to the authority for a grant for any project in which:

43 (1) (a) At least 75 eligible positions are created in the base years;

44 or

45 (b) At least 25 eligible positions are created in a targeted area in
46 the base years; and

1 (2) The tenants or proposed tenants have agreed to assign to the
2 landlord any claim of right that they may have to a grant provided by
3 this act; and

4 (3) The tenant or proposed tenants have agreed to cooperate with
5 the landlord in annually providing to the authority the number of new
6 employees in eligible positions, the withholdings and any other
7 information which may be required by the authority.

8 c. A project which consists solely of point-of-final-purchase retail
9 facilities shall not be eligible for a grant under this act. If a project
10 consists of both point-of-final-purchase retail facilities and non-retail
11 facilities, only the portion of the project consisting of non-retail
12 facilities shall be eligible for a grant, and only the withholdings from
13 new employees which are employed in the portion of the project which
14 represents non-retail facilities shall be used to determine the amount
15 of the grant. If a warehouse facility is part of a point-of-final purchase
16 retail facility and supplies only that facility, the warehouse facility shall
17 not be eligible for a grant. For the purposes of this act, catalog
18 distribution centers shall not be considered point-of-final-purchase
19 retail facilities.

20

21 5. (New section) A business shall apply to the authority for a grant
22 on a form prescribed by the authority which shall include:

23 a. The name of the business, the proposed location of the project,
24 and the type of activity which will be engaged in at the project site;

25 b. The names and addresses of the principals or management of the
26 business, and the nature of the form of business organization under
27 which it is operated;

28 c. The most recent financial statement of the business;

29 d. The number of eligible positions proposed to be created during
30 the base years and thereafter; and

31 e. An estimate of the total withholdings.

32 ²A cooperative association may apply, in one consolidated
33 application in a form and manner determined by the authority, for a
34 grant on its own behalf as a business and for grants on behalf of the
35 members of the association who may qualify under this act.

36 If a cooperative association is applying for grants on behalf of its
37 members, the members for whom the application is submitted shall
38 assign to the association any claim of right the members may have
39 under this act to apply for grants individually during the term of the
40 business employment incentive agreement, and agree to cooperate with
41 the association in providing to the authority all the information
42 required for the initial application, the business employment incentive
43 agreement, and any other information the authority may require for
44 the purposes of this act. The cooperative association shall be
45 responsible for providing to the authority all the information required
46 under this act.

1 If a cooperative association applies for a grant on behalf of its
2 members, the members included in the application may be permitted
3 to meet the qualifications for a grant collectively by participating in a
4 project that will meet the requirements of section 3 and 4 of this act,
5 the amount of a grant shall be calculated under the terms of this act as
6 if the members are all collectively one business entity, and any
7 restrictions on the qualification for a grant shall apply to each member
8 who is listed in the application as participating in the project. The
9 grants awarded shall be paid to the cooperative association. A grant
10 received under this act by a cooperative association may be
11 apportioned to the members of the association in a manner determined
12 by the association. Each member included in the application shall be
13 required to sign the business employment incentive agreement and
14 shall abide by its terms.²

15
16 6. (New section) a. The amount of the employment incentive
17 awarded as a grant in each case shall be not less than 10% and not
18 more than 80% of the withholdings of the business, and shall be
19 subject to the provisions of sections 10 and 11 of this act. The
20 employment incentive shall be based on criteria developed by the
21 authority after considering the following:

- 22 (1) The number of eligible positions to be created;
23 (2) The expected duration of those positions;
24 (3) The type of contribution the business can make to the
25 long-term growth of the State's economy;
26 (4) The amount of other financial assistance the business will
27 receive from the State for the project; and
28 (5) The total dollar investment the business is making in the
29 project.

30 b. The term of the grant shall not exceed 10 years.

31 c. At the discretion of the authority, the grant may apply only to
32 new employees in eligible positions created during the base years, or
33 to additional new employees in eligible positions created during the
34 remainder of the term of the grant.

35
36 7. (New section) The business employment incentive agreement
37 shall include, but shall not be limited to, the following:

38 a. A detailed description of the proposed project which will result
39 in job creation, and the number of new employees to be hired in the
40 base years;

41 b. The term of the grant, and the first year for which the grant may
42 be claimed;

43 c. The new employees whose positions are subjects of the grant,
44 pursuant to subsection c. of section 6 of this act;

45 d. A requirement that the applicant maintain the project at a
46 location in New Jersey for at least 1.5 times the number of years of the

1 term of the grant, with at least the number of eligible positions as
2 required by section 4 of this act;

3 e. The employment incentive, as determined pursuant to subsection
4 a. of section 6 of this act;

5 f. A method for determining the number of new employees who are
6 employed during a grant year;

7 g. A method for the business to report annually to the authority the
8 number of new employees for which the grant is to be made;

9 h. A requirement that the business report to the authority annually
10 the aggregate amount of withholdings during the grant year;

11 i. A provision permitting an audit of the payroll records of the
12 business by the authority from time to time, as the authority deems
13 necessary;

14 j. A provision which permits the authority to amend an agreement
15 pursuant to section 9 of this act;

16 k. A provision which requires the business to maintain operations
17 at the project location or another location approved by the authority
18 for at least 1.5 times the term of the grant, and a provision to permit
19 the authority to recapture all or part of the grant at its discretion if the
20 business does not remain at the site for the required term; and

21 l. A provision establishing the conditions under which the grant
22 agreement may be terminated and grant funds recaptured by the
23 authority.

24

25 8. (New section) a. No later than February 1 of each year, for the
26 preceding grant year, every business which is awarded a grant under
27 this act shall submit to the authority a copy of its applicable New
28 Jersey tax return showing business income and withholdings as a
29 condition of its continuation in the grant program, together with an
30 annual payroll report showing (1) the eligible positions which are
31 created during the base years and (2) the new eligible positions created
32 during each subsequent year of the grant.

33 b. The division may require by regulation any information which it
34 deems necessary to effectuate the provisions of this act.

35 c. The authority may cause an audit of any business receiving a
36 grant to be conducted at any time.

37

38 9. (New section) a. If the business receiving a grant fails to meet
39 or comply with any condition or requirement set forth in a grant
40 agreement or in rules and regulations of the authority or the division,
41 the authority may amend the agreement to reduce the amount of the
42 employment incentive or the term of the grant agreement. The
43 reduction of the employment incentive shall be applicable to the grant
44 year immediately following the grant year in which the authority
45 amends the agreement.

46 b. If a business fails to maintain employment at the levels stipulated

1 in the agreement or otherwise fails to comply with any condition of the
2 grant agreement for any two consecutive years, the authority may
3 terminate the agreement.

4

5 10. (New section) No amount shall be disbursed to a recipient
6 business as a grant under this act in any year until the State Treasurer
7 has certified that the amount of withholdings received in that year by
8 the division from the business equals or exceeds the amount of the
9 grant.

10

11 11. (New section) a. A business that is receiving a business
12 relocation grant pursuant to the provisions of P.L. , c. (C.)(now
13 before the Legislature as Senate Bill No. 2390 (1R) or Assembly Bill
14 No. 3202 (1R) of 1995) shall not be eligible to receive a grant under
15 this act except upon the approval of the State Treasurer.

16 b. A business that is receiving any other grant by operation of State
17 law shall not receive an amount as a grant pursuant to this act which,
18 when combined with such other grants, exceeds 80% of its
19 withholdings, except upon the approval of the State Treasurer.
20 Amounts received as grants from the Office of Customized Training
21 pursuant to the "1992 New Jersey Employment and Workforce
22 Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.) shall be
23 excluded from the calculation of the total amount permitted under this
24 subsection.

25

26 12. (New section) The department shall conduct a study to
27 determine the minimum funding level required to implement the
28 Business Employment Incentive Program successfully. Major
29 consideration shall be given to the rate of return for each job created
30 as a result of business employment incentive grants.

31

32 13. (New section) The authority shall establish an application fee
33 for a grant application and service fees payable by each business which
34 is a grant recipient to pay the costs of the administration of the
35 program.

36

37 14. (New section) The New Jersey Economic Development
38 Authority, after consultation with the Department of Commerce and
39 Economic Development and the Division of Taxation, shall, in
40 accordance with the "Administrative Procedure Act," P.L.1968, c.410
41 (C.52:14B-1 et seq.), adopt rules necessary to implement the
42 provisions of the Business Employment Incentive Program not related
43 to the collection or determination of taxes and tax withholding. The
44 rules shall provide for the recipients of business employment incentive
45 grants to be charged an initial application fee, and ongoing service
46 fees, to cover the administrative costs related to the program. ²The

1 rules also shall include the procedures to clarify the application of the
2 various provisions of this act to cooperative associations that submit
3 applications on behalf of their members.² The Director of the Division
4 of Taxation is authorized to promulgate those rules necessary to
5 effectuate the tax related provisions of the Business Employment
6 Incentive Program.

7
8 15. (New section) The Department of Commerce and Economic
9 Development shall submit a report on the Business Employment
10 Incentive Program to the Governor, President of the Senate, and
11 Speaker of the General Assembly on or before October 31 of each
12 year. The report shall include information on the number of
13 agreements entered into during the preceding fiscal year, a description
14 of the project under each agreement, the number of jobs created, new
15 income tax revenue received from withholdings, amounts awarded as
16 grants and an update on the status of projects under agreement before
17 the preceding fiscal year. After the program's fifth year, the
18 department, in conjunction with the State Treasurer, shall assess the
19 effectiveness of the program in creating new jobs in New Jersey and
20 the impact on State revenues. The department shall submit a final
21 report to the Governor, Senate President, and Speaker of the General
22 Assembly on or before January 1, 2000.

23
24 16. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as
25 follows:

26 5. The authority shall have the following powers:

27 a. To adopt bylaws for the regulation of its affairs and the conduct
28 of its business;

29 b. To adopt and have a seal and to alter the same at pleasure;

30 c. To sue and be sued;

31 d. To acquire in the name of the authority by purchase or
32 otherwise, on such terms and conditions and such manner as it may
33 deem proper, or by the exercise of the power of eminent domain in the
34 manner provided by the Eminent Domain Act of 1971, P.L.1971,
35 c.361 (C.20:3-1 et seq.), any lands or interests therein or other
36 property which it may determine is reasonably necessary for any
37 project; provided, however, that the authority shall not take by
38 exercise of the power of eminent domain any real property except
39 upon consent thereto given by resolution of the governing body of the
40 municipality in which such real property is located; and provided
41 further that the authority shall be limited in its exercise of the power
42 of eminent domain to municipalities receiving State aid under the
43 provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to
44 municipalities which had a population, according to the latest federal
45 decennial census, in excess of 10,000;

46 e. To enter into contracts with a person upon such terms and

- 1 conditions as the authority shall determine to be reasonable, including,
2 but not limited to, reimbursement for the planning, designing,
3 financing, construction, reconstruction, improvement, equipping,
4 furnishing, operation and maintenance of the project and to pay or
5 compromise any claims arising therefrom;
- 6 f. To establish and maintain reserve and insurance funds with
7 respect to the financing of the project;
- 8 g. To sell, convey or lease to any person all or any portion of a
9 project, for such consideration and upon such terms as the authority
10 may determine to be reasonable;
- 11 h. To mortgage, pledge or assign or otherwise encumber all or any
12 portion of a project or revenues, whenever it shall find such action to
13 be in furtherance of the purposes of this act;
- 14 i. To grant options to purchase or renew a lease for any of its
15 projects on such terms as the authority may determine to be
16 reasonable;
- 17 j. To contract for and to accept any gifts or grants or loans of
18 funds or property or financial or other aid in any form from the United
19 States of America or any agency or instrumentality thereof, or from
20 the State or any agency, instrumentality or political subdivision
21 thereof, or from any other source and to comply, subject to the
22 provisions of the act, with the terms and conditions thereof;
- 23 k. In connection with any application for assistance under this act
24 or commitments therefor, to require and collect such fees and charges
25 as the authority shall determine to be reasonable;
- 26 l. To adopt, amend and repeal regulations to carry out the
27 provisions of this act;
- 28 m. To acquire, purchase, manage and operate, hold and dispose of
29 real and personal property or interests therein, take assignments of
30 rentals and leases and make and enter into all contracts, leases,
31 agreements and arrangements necessary or incidental to the
32 performance of its duties;
- 33 n. To purchase, acquire and take assignments of notes, mortgages
34 and other forms of security and evidences of indebtedness;
- 35 o. To purchase, acquire, attach, seize, accept or take title to any
36 project by conveyance or by foreclosure, and sell, lease, manage or
37 operate any project for a use specified in this act;
- 38 p. To borrow money and to issue bonds of the authority and to
39 provide for the rights of the holders thereof, as provided in this act;
- 40 q. To extend credit or make loans to any person for the planning,
41 designing, acquiring, constructing, reconstructing, improving,
42 equipping and furnishing of a project, which credits or loans may be
43 secured by loan and security agreements, mortgages, leases and any
44 other instruments, upon such terms and conditions as the authority
45 shall deem reasonable, including provision for the establishment and
46 maintenance of reserve and insurance funds, and to require the

- 1 inclusion in any mortgage, lease, contract, loan and security agreement
2 or other instrument, such provisions for the construction, use,
3 operation and maintenance and financing of a project as the authority
4 may deem necessary or desirable;
- 5 r. To guarantee up to 90% of the amount of a loan to a person, if
6 the proceeds of the loan are to be applied to the purchase and
7 installation, in a building devoted to industrial or commercial
8 purposes, or in an office building, of an energy improvement system;
- 9 s. To employ consulting engineers, architects, attorneys, real estate
10 counselors, appraisers, and such other consultants and employees as
11 may be required in the judgment of the authority to carry out the
12 purposes of the act, and to fix and pay their compensation from funds
13 available to the authority therefor, all without regard to the provisions
14 of Title [11, Civil Service,]11A of the [Revised] New Jersey
15 Statutes;
- 16 t. To do and perform any acts and things authorized by this act
17 under, through or by means of its own officers, agents and employees,
18 or by contract with any person;
- 19 u. To procure insurance against any losses in connection with its
20 property, operations or assets in such amounts and from such insurers
21 as it deems desirable;
- 22 v. To do any and all things necessary or convenient to carry out its
23 purposes and exercise the powers given and granted in the act;
- 24 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
25 maintain or repair or provide for the construction, reconstruction,
26 improvement, alteration, equipping or maintenance or repair of any
27 development property and lot, award and enter into construction
28 contracts, purchase orders and other contracts with respect thereto,
29 upon such terms and conditions as the authority shall determine to be
30 reasonable, including, but not limited to, reimbursement for the
31 planning, designing, financing, construction, reconstruction,
32 improvement, equipping, furnishing, operation and maintenance of any
33 such development property and the settlement of any claims arising
34 therefrom and the establishment and maintenance of reserve funds with
35 respect to the financing of such development property; [and]
- 36 x. When authorized by the governing body of a municipality
37 exercising jurisdiction over an urban growth zone, to construct, cause
38 to be constructed or to provide financial assistance to projects in an
39 urban growth zone which shall be exempt from the terms and
40 requirements of the land use ordinances and regulations, including, but
41 not limited to, the master plan and zoning ordinances, of such
42 municipality; and
- 43 y. To enter into business employment incentive agreements as
44 provided in the "Business Employment Incentive Program Act."

1 P.L. c. (C.) (now before the Legislature as this bill).

2 (cf: P.L.1983, c.282, s.3)

3

4 17. ²**[For the fiscal year beginning July 1, 1995, there] There ² is**
5 appropriated to the New Jersey Economic Development Authority
6 from the General Fund such sums as may be necessary to fund the
7 Business Employment Incentive Program established by this act, the
8 amount of which shall not exceed the total amount of revenues
9 received as withholdings, as defined in section 2 of P.L. , c. (C.)
10 (now before the Legislature as this bill) from all businesses receiving
11 grants pursuant to this act, as certified by the Director of the Division
12 of Taxation.

13

14 ²18. Section 25 of P.L.1980, c.105 (C.54:32B-8.13) is amended to
15 read as follows:

16 25. Receipts from the following are exempt from the tax imposed
17 under the Sales and Use Tax Act:

18 a. Sales of machinery, apparatus or equipment for use or
19 consumption directly and primarily in the production of tangible
20 personal property by manufacturing, processing, assembling or
21 refining;

22 b. Sales of machinery, apparatus or equipment for use or
23 consumption directly and primarily in the production, generation,
24 transmission or distribution of gas, electricity, refrigeration, steam or
25 water for sale or in the operation of sewerage systems;

26 c. Sales of telephones, telephone lines, cables, central office
27 equipment or station apparatus, or other machinery, equipment or
28 apparatus, or comparable telegraph equipment to a service provider
29 subject to the jurisdiction of the Board of Public Utilities or the
30 Federal Communications Commission, for use directly and primarily
31 in receiving at destination or initiating, transmitting and switching
32 telephone, telegraph or interactive telecommunications service for sale
33 to the general public;

34 d. Sales of machinery, apparatus, equipment, building materials,
35 or structures or portions thereof, used directly and primarily for
36 cogeneration in a cogeneration facility. As used in this subsection,
37 "cogeneration facility" means a facility the primary purpose of which
38 is the sequential production of electricity and steam or other forms of
39 useful energy which are used for industrial or commercial heating or
40 cooling purposes and which is designated by the Federal Energy
41 Regulatory Commission, or its successor, as a "qualifying facility"
42 pursuant to the provisions of the "Public Utility Regulatory Policies
43 Act of 1978," Pub. L. 95-617. The Director of the Office of Energy
44 in the Department of Environmental Protection, in consultation with
45 the Director of the Division of Taxation, shall adopt, pursuant to the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), rules and regulations establishing technical specifications for
2 eligibility for the exemption provided in this subsection;

3 e. Sales of machinery, apparatus or equipment including
4 transponders, earth stations, microwave dishes, transmitters and
5 receivers which have a useful life exceeding one year, other than that
6 used in the construction or operation of towers, to a commercial
7 broadcaster operating under a broadcasting license issued by the
8 Federal Communications Commission or to a provider of
9 cable/satellite television program services who may or may not operate
10 under a broadcasting license issued by the Federal Communications
11 Commission for use or consumption directly and primarily in the
12 production or transmission of radio or television **[broadcasts]**
13 information transmitted, delivered or archived through any medium or
14 method.

15 The exemptions granted under this section shall not be construed
16 to apply to sales, otherwise taxable, of machinery, equipment or
17 apparatus whose use is incidental to the activities described in
18 subsections a., b., c., d. and e. of this section.

19 The exemptions granted in this section shall not apply to motor
20 vehicles or to parts with a useful life of one year or less or tools or
21 supplies used in connection with the machinery, equipment or
22 apparatus described in this section.²

23 (cf: P.L.1995, c.317, s.1)

24

25 ²**[18.] 19.**² This act shall take effect immediately ²provided
26 however that section 18 shall remain inoperative until the first day of
27 the first month following enactment².

28

29

30

31

32 Creates employment incentives through grant program and sales and
33 use tax exemption; appropriates General Fund revenues.

1 provided in the "Business Employment Incentive Program Act." P.L.
2 c. (C.) (now before the Legislature as this bill).
3 (cf: P.L.1983, c.282, s.3)

4
5 17. For the fiscal year beginning July 1, 1995, there is appropriated
6 to the New Jersey Economic Development Authority from the General
7 Fund such sums as may be necessary to fund the Business Employment
8 Incentive Program established by this act, the amount of which shall
9 not exceed the total amount of revenues received as withholdings, as
10 defined in section 2 of P.L. , c. (C.) (now before the Legislature
11 as this bill) from all businesses receiving grants pursuant to this act, as
12 certified by the Director of the Division of Taxation.

13
14 18. This act shall take effect immediately.

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17 *SPONSORS* STATEMENT

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19 This bill establishes the Business Employment Incentive Program to
20 be administered by the Economic Development Authority to make
21 direct payments in the form of grants to attract businesses creating
22 new jobs in the State. The amount of an employment incentive grant
23 will equal a percentage, between 10% and 80%, of the total amount of
24 State income taxes withheld by the business during a calendar year for
25 the new employees hired. The employment incentive can be
26 authorized for a fixed number of years, not to exceed 10.

27 The grants under this bill will not be disbursed in any year until the
28 new income tax revenues received from the business during the year
29 equal or exceed the amount of the grant, and grant amounts are further
30 limited by their interaction with other grant programs.

31 The bill makes a fiscal year 1996 General Fund appropriation to the
32 Economic Development Authority of an unspecified amount as needed
33 to fund the employment incentive program under this bill; the amount
34 of the appropriation may not exceed the amount of income tax
35 revenues generated from the new jobs created by the grant recipients.

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40 Creates the Business Employment Incentive Program and appropriates
41 General Fund revenues therefor.

ASSEMBLY APPROPRIATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1415

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 29, 1996

The Assembly Appropriation Committee reports favorably Assembly Bill No. 1415, with committee amendments.

Assembly Bill No. 1415, as amended, establishes the Business Employment Incentive Program to be administered by the Economic Development Authority to make direct payments in the form of grants to attract businesses creating new jobs in the State. The amount of an employment incentive grant will equal a percentage, between 10% and 80%, of the total amount of State income taxes withheld by the business during a calendar year for the new employees hired. The employment incentive can be authorized for a fixed number of years, not to exceed 10.

The grants under this bill will not be disbursed in any year until the new income tax revenues received from the business during the year equal or exceed the amount of the grant, and grant amounts are further limited by their interaction with other grant programs under amendments adopted by the committee.

This bill, as amended and reported by this committee, is identical to Senate Bill No. 471 Sca.

FISCAL IMPACT:

The bill makes a fiscal year 1996 General Fund appropriation to the Economic Development Authority of an unspecified amount as needed to fund the employment incentive program under this bill; the amount of the appropriation may not exceed the amount of income tax revenues generated from the new jobs created by the grant recipients.

The Office of Legislative Services cannot project the number of new jobs that will be created under the incentives of the bill, the percentage and period of incentive that will be a material factor in the businesses' decision to go forward or the wage levels of the jobs that will be created. An estimate of the cost of the program cannot be made at this time.

COMMITTEE AMENDMENTS

The committee amendments clarify the definition of "eligible position" to provide that greater consideration will be given when the position in question pays an average of at least 1.5 times the minimum wage.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1415

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1996

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1415 (1R) with amendments.

Assembly Bill No. 1415 (1R), as amended, establishes the Business Employment Incentive Program to be administered by the Economic Development Authority to make direct payments in the form of grants to attract businesses creating new jobs in the State. The amount of an employment incentive grant will equal a percentage, between 10% and 80%, of the total amount of State income taxes withheld by the business during a calendar year for the new employees hired. The employment incentive can be authorized for a fixed number of years, not to exceed 10.

The grants under this bill will not be disbursed in any year until the new income tax revenues received from the business during the year equal or exceed the amount of the grant, and grant amounts are further limited by their interaction with other grant programs.

In addition, the bill grants a sales and use tax exemption for certain property purchased by a provider of cable/satellite television program services, whether the provider is licensed by the Federal Communications Commission or not.

This bill, as amended and reported by this committee, is identical to Senate Bill No. 471 (1R) of 1996 (Kyrillos/Ciesla) as amended and reported by this committee on March 18, 1996.

COMMITTEE AMENDMENTS:

The committee amended the bill to include a provision in section 5 of the bill that will allow cooperative associations to apply for grants under this bill on behalf of their members. Cooperative exchange as used in the bill will include financial, stock or commodities exchanges.

In addition, the committee amended the bill to create a new section 18 that will provide a sales and use tax exemption for certain property purchased by a provider of cable/satellite television services, whether licensed by the Federal Communications Commission or not. The amendment would provide a sales and use tax exemption for certain

purchases by providers of cable/satellite program services, news (including business news), sports, information or entertainment programming, on-line content and information services and interactive services similar to the exemption recently enacted for radio and television commercial broadcasters and an existing exemption for the newspaper industry.

According to the sponsor of the companion Senate bill who proposed the amendment, the proliferation of cable/satellite program services, news, sports, or entertainment programming, together with advances in technology and the availability of personal computers, **have led to the expansion, development and creation of various sources of production, distribution and transmission of information.** All of these media share a common goal among themselves and with commercial radio and television broadcasting and newspapers and all compete for advertising and subscriber revenue and market share. This exemption would remove the disparate treatment among similar forms of the media industry and enhance the State's ability to attract these emerging and expanding hji-tech segments of the media industry and provide additional jobs to the state.

FISCAL IMPACT:

The bill makes a fiscal year 1996 General Fund appropriation to the Economic Development Authority of an unspecified amount as needed to fund the employment incentive program under this bill; the amount of the appropriation may not exceed the amount of income tax revenues generated from the new jobs created by the grant recipients.

The Office of Legislative Services cannot project the number of new jobs that will be created under the incentives of the bill, the percentage and period of incentive that will be a material factor in decisions to create jobs, or the wage levels of the jobs that will be created. An estimate of the cost of the program cannot be made at this time.

Finally, because the sales and use tax exemption was added to the bill during the meeting, an estimate of its impact on State revenues was not available as of the date of this statement.

[Corrected Copy]

LEGISLATIVE FISCAL ESTIMATE TO

[Second Reprint]
ASSEMBLY, No. 1415

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STATE OF NEW JERSEY

DATED: APRIL 10, 1996

Assembly Bill No. 1415 (2R) of 1996 establishes the Business Employment Incentive Program to be administered by the New Jersey Economic Development Authority (EDA) to make direct payments in the form of grants to attract businesses creating new jobs in the State. The amount of an employment incentive grant will equal a percentage, between 10 percent and 80 percent, of the total amount of State income taxes withheld by the business during a calendar year for the new employees hired. The employment incentive can be authorized for a fixed number of years, not to exceed ten.

Grants under this bill will not be disbursed in any year until the new income tax revenues received from the business during the year equal or exceed the amount of the grant, and grant amounts are further limited in consideration of grants received under other programs.

In addition, the bill grants a sales and use tax exemption for certain property purchased by a provider of cable/satellite television program services, whether the provider is licensed by the Federal Communications Commission or not.

The Department of Commerce and Economic Development previously indicated, when the predecessor bill was considered during the last legislative session, that the State will not incur a net increase in expenditures as a result of the bill, and that the bill is, therefore, revenue neutral. The department's projection assumes that the cost of the employment incentive grants will be offset entirely by the increase in State income tax revenues as a result of the newly created jobs.

The Office of Legislative Services (OLS) cannot estimate the bill's net impact on the General Fund; however, the OLS notes that the establishment of a dedicated funding source for this program represents a loss of potential income to the State, as does the extension of a sales and use tax exemption for certain property purchases, since these revenues would otherwise flow to the General Fund. Moreover, the OLS notes that although grants awarded pursuant to the program may equal up to 80 percent of the projected new income tax revenue from the new jobs created by a grant applicant, section 17 of the bill appropriates to the EDA in FY 1996 up to 100 percent of the new income tax revenues, at the same time it permits the EDA to charge application and service fees to cover the costs of implementing the program.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

7/4/96
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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

TRENTON, NJ 08625

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RELEASE: May 9, 1996

Declaring that New Jersey has the talent and capability to be the engine of economic growth for the entire nation, Gov. Christie Whitman today signed two bills designed to promote business retention and expansion in the Garden State, and broke ground on the new Technology Centre of New Jersey located in North Brunswick.

“What these two events have in common is that they are about jobs -- jobs today, and jobs for the future,” said Gov. Whitman. “New Jersey is already a superior place to do business. But now, we will have an added edge. Our incentive package makes us competitive with any state in the nation, while the new Technology Centre will attract the growth industries that will lead us into the 21st Century.”

A-1414/S-472 establishes the Business Relocation and Expansion Program, which allows the state to pay a portion of a business' expenses to move to or expand in New Jersey. The legislation allows the Department of Commerce to approve grants for up to 50%, or \$200 per job created, of the relocation or expansion costs for companies that create a minimum of 25 new full-time jobs.

A-1415/S-471 creates the Business Employment Incentive Program, which allows the state to provide grants to businesses that create at least 25 new full-time jobs in our urban-aid communities or at least 75 jobs elsewhere in the state. The bill authorizes the New Jersey Economic Development Authority (EDA) to enter into agreements with businesses to make direct payments in the form of grants equal to 10% to 80% of the total amount of the business' state income taxes withheld for newly hired employees. The percentage of the grant awarded will be based on a number of factors including the number of jobs created; the expected duration of the positions; the type of contribution the business is expected to make to the long-term growth of the state's economy; and the amount of other financial assistance already being offered to the business by the state. The term of the grant cannot exceed 10 years.