

LEGISLATIVE HISTORY CHECKLIST
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("New Jersey Biotechnology
 Financial Assistance)

NJSA: 34:1B-7.37

LAWS OF: 1995 **CHAPTER:** 137

BILL NO: S812

SPONSOR(S): Singer and McGreevey

DATE INTRODUCED: March 10, 1994

COMMITTEE: **ASSEMBLY:** ---
SENATE: Natural Resources

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

DATE OF PASSAGE: **ASSEMBLY:** January 23, 1995 Re-enacted 6-19-95
SENATE: December 15, 1994 Re-enacted 5-11-95

DATE OF APPROVAL: June 28, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: Yes

974.90 New Jersey. Biotechnology Development Task Force.
 I4 Meeting, held 11-16-93 and 10-8-93, Trenton, 1993.
 1993

974.90 New Jersey. Legislature. Joint Legislative Task Force on
 I42 Biotechnology.
 1994a Meetings held 4-11, 6-24, 8-9, 11-4, and 12-9-94. New
 Jersey, 1994.

KBG:pp

[SECOND REPRINT]

SENATE, No. 812

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1994

By Senators SINGER, McGREEVEY,
Assemblymen Impreduto and Felice

1 AN ACT to provide financial assistance for the development and
2 commercialization of ²emerging technology companies and²
3 the biotechnology industry in the State and supplementing
4 chapter 1B of Title 34 of the Revised Statutes.

5

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

8 1. This act shall be known and may be cited as the "New
9 Jersey ²Emerging Technology and² Biotechnology Financial
10 Assistance Act."

11 2. The Legislature finds and declares that:

12 a. Biotechnology is an emerging technology that holds great
13 promise for designing living organisms that can be used for the
14 treatment of diseases, and improvements to plants and animals,
15 and to otherwise provide for exceptional advances for the
16 betterment of living things;

17 b. The development and support of biotechnology is especially
18 important in light of the long-established pharmaceutical
19 industry in the State, the many related university research
20 programs on biotechnology, and the sizable investment, to date,
21 of State funds in academic "centers of excellence," and is also
22 vital to the fulfillment of certain responsibilities of the New
23 Jersey Commission on Science and Technology;

24 c. In order for society to appreciate the anticipated potential
25 rewards from ²emerging technology and² biotechnology research,
26 private industry must have access to sufficient financial
27 resources to conduct research and transfer research discoveries
28 into viable, commercial products;

29 d. As an emerging technology, biotechnology, the
30 biotechnology industry, and the industry's required concomitant
31 facilities face significant obstacles in obtaining financial
32 assistance because of the perceived risk of investing in such new
33 ventures;

34 e. Because of the substantial employment opportunities that
35 could be created by ²[a]² successful ²emerging technology and²
36 biotechnology ²[industry] industries² and the resulting importance
37 of such ²[industry] industries² to the State's economic base, the
38 State can best stimulate and encourage private investment in
39 ²emerging technology and² biotechnology by directing the New
40 Jersey Economic Development Authority to provide financial
41 assistance to ²emerging technology and² biotechnology
42 companies located in the State.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SNT committee amendments adopted June 16, 1994.

² Senate amendments adopted in accordance with Governor's
recommendations March 30, 1995.

1 ²f. In considering how to best allocate its resources pursuant
2 to this act, the authority should give due consideration to further
3 supporting emerging technology or biotechnology joint ventures
4 by providing economic development funds and assistance to help
5 stimulate growth in disadvantaged urban areas of the State,
6 where public/private partnerships have already been formed, or
7 will be formed, to promote emerging technology and
8 biotechnology research and product development initiatives.²

9 3. As used in this act:

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

13 "Biotechnology" means the ¹[use of living organisms to produce
14 or modify products, improve plants or animals, or develop
15 microorganisms for specific purposes.] continually expanding body
16 of fundamental knowledge about the functioning of biological
17 systems from the macro level to the molecular and sub-atomic
18 levels, as well as novel products, services, technologies and
19 sub-technologies developed as a result of insights gained from
20 research advances which add to that body of fundamental
21 knowledge;¹

22 "Biotechnology company" means a person¹, whose headquarters
23 or base of operations is located in New Jersey,¹ engaged in the
24 research, development, production, or provision of biotechnology
25 for the purpose of developing or providing products or processes
26 for specific commercial or public purposes, including but not
27 limited to, medical, pharmaceutical, nutritional, and other
28 health-related purposes, agricultural purposes, and environmental
29 purposes, or a person¹, whose headquarters or base of operations
30 is located in New Jersey,¹ engaged in providing services or
31 products necessary for such research, development, production,
32 or provision¹[.];¹

33 "Cost" means the expenses incurred in connection with the
34 operation of ²[a] an emerging technology or² biotechnology
35 company in the State and shall include, but need not be limited
36 to, the expenses of fixed assets, ²such as the construction,
37 acquisition and development of real estate,² materials, start-up,
38 tenant fit-out, working capital, and any other expenses
39 determined by the authority to be necessary to carry out the
40 purposes of this act¹[.];¹

41 ²"Emerging Technology Company" means a person, whose
42 headquarters or base of operations is located in New Jersey, and
43 who employs some combination of the following: highly educated
44 and/or trained managers and workers employed in New Jersey
45 who use sophisticated scientific research service/production
46 equipment, processes or knowledge to discover, develop, test,
47 transfer or manufacture a product or service.²

48 ¹"Financial institution" means an individual or organization
49 deemed eligible by the authority for participation in the program
50 and shall include, but need not be limited to, State-chartered or
51 federally-chartered banks, savings banks or savings and loan
52 associations, banks organized under the laws of a foreign
53 government, private individuals, insurance companies, landlords,
54 finance companies and venture capitalists;¹

1 "Fixed assets" means any real property, interests in real
2 property, plant, equipment, and any other assets commonly
3 accepted as fixed assets¹[.];¹

4 ¹["Participating bank" means a State- or federally-chartered
5 bank, savings bank or savings and loan association, or a bank
6 organized under the laws of a foreign government, deemed
7 eligible by the authority for participation in the program.];¹

8 "Program" means the "New Jersey ²Emerging Technology and²
9 Biotechnology Financial Assistance Program" established by the
10 authority pursuant to section 4 of this act¹[.]; and¹

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

13 4. The authority shall establish a "New Jersey ²Emerging
14 Technology and² Biotechnology Financial Assistance Program" to
15 stimulate increased financing to help fund the costs incurred by
16 new or expanding ²emerging technology and² biotechnology
17 companies in the State.

18 5. a. To implement the program, the authority shall establish
19 and maintain a special ¹[non-lapsing revolving fund] account¹ to
20 be known as the "New Jersey ²Emerging Technology and²
21 Biotechnology Financial Assistance Fund," hereinafter the
22 "assistance fund," which shall be credited with: (1) an amount
23 from the Economic Recovery Fund established pursuant to
24 section 3 of P.L.1992, c.16 (C.34:1B-7.12) which the authority
25 determines is necessary to effectively implement the program,
26 within the limits of funding available from the Economic
27 Recovery Fund; (2) any moneys that shall be received by the
28 authority from the repayment of the moneys in the assistance
29 fund used to provide financial assistance pursuant to this act and
30 interest thereon; (3) other moneys of the authority, including but
31 not limited to, any moneys available from other business
32 assistance programs administered by the authority which it
33 determines to deposit therein; and (4) any appropriation made by
34 the Legislature to effectuate the purposes of this act.

35 b. The authority shall use the moneys in the assistance fund to:
36 (1) provide or participate in the provision of financial assistance
37 to ²emerging technology or² biotechnology companies deemed
38 approved pursuant to section 6 of this act, which assistance may
39 include, but need not be limited to, loan guarantees and
40 assistance in establishing lines of credit, ²real estate
41 development assistance,² and technical advice on locating private
42 and public sources of funding; and (2) defray the administrative
43 expenses of the authority in carrying out the purposes and
44 provisions of this act.

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

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

53 e. The authority shall establish sufficient reserves and liquid
54 reserves to provide a sufficient and actuarially sound basis for its

1 pledges contained in any financial assistance agreement entered
2 into pursuant to this act.

3 1f. The authority is authorized to disburse moneys in the
4 assistance fund for purposes unrelated to this act if, for a period
5 of at least three years, no moneys are disbursed from the
6 assistance fund for the purposes set forth pursuant to this act.¹

7 6. a. Applications for money from the assistance fund
8 established under this act shall be submitted by ²emerging
9 technology or² biotechnology companies in a form and manner
10 determined by the authority.¹[The authority shall, in
11 consultation with the Department of Commerce and Economic
12 Development, the New Jersey Commission on Science and
13 Technology, and the Office of Labor Statistics in the Division of
14 Planning and Research of the Department of Labor, develop
15 criteria for the approval or disapproval of applications. Such
16 criteria shall include, but need not be limited to, an evaluation of
17 the applicant's actual or potential scientific and technological
18 viability, and the extent to which the applicant's proposed or
19 expanded activities will enhance or diversify the State's capacity
20 and competitiveness in the field of biotechnology and increase
21 opportunities for permanent, full-time employment in the State.]
22 The authority shall approve or disapprove applications pursuant to
23 the criteria developed pursuant to subsection c. of this section,
24 and may employ any institution of higher education in this State
25 in the approval process.¹

26 b. The authority shall enter into written agreements with
27 ²emerging technology or² biotechnology companies approved for
28 financial assistance pursuant to this act, and, as appropriate, with
29 ¹[participating banks and other]¹ financial institutions¹,]¹
30 concerning the type, amount and terms of the financial assistance
31 provided.

32 1c. The authority shall, in consultation with the Department of
33 Commerce and Economic Development, the New Jersey
34 Commission on Science and Technology and any institution of
35 higher education in New Jersey, develop criteria for the approval
36 or disapproval of applications submitted pursuant to subsection a.
37 of this section. Such criteria shall include, but need not be
38 limited to, an evaluation of the ²emerging technology or²
39 biotechnology company's actual or potential scientific and
40 technological viability, a determination that the ²emerging
41 technology or² biotechnology company's principal products or
42 services are sufficiently innovative to provide a competitive
43 advantage, a determination that the proposed financial assistance
44 will result in significant growth in permanent, full-time
45 employment in the State, a determination that the ²emerging
46 technology or² biotechnology company has been unable to secure
47 financial assistance on affordable terms from conventional
48 sources, a determination that the financial assistance provided
49 pursuant to this act demonstrates the prospect of a high rate of
50 return on investment, and the extent to which the applicant's
51 proposed or expanded activities will enhance or diversify the
52 State's capacity and competitiveness in the field of ²emerging
53 technology or² biotechnology.¹

54 2d. The Department of Commerce and Economic Development

1 and the authority may promote economic development in
2 disadvantaged urban areas of the State, where emerging
3 technology or biotechnology joint ventures have been or will be
4 established.²

5 7. Not later than one year following the effective date of this
6 act, and for each succeeding year in which a financial assistance
7 agreement entered into under this act is in effect, the authority
8 shall prepare a report on the program. The report shall include,
9 but need not be limited to, a description of the demand for the
10 program from ²emerging technology and² biotechnology
11 companies and ¹[participating banks] financial institutions¹, the
12 efforts made by the authority to promote the program, the total
13 amount of financial assistance approved by the authority pursuant
14 to the program and an assessment of the effectiveness of the
15 program in meeting the goals of this act. The authority shall
16 submit its report to the Governor and the Legislature, including
17 therein any recommendations for legislation to improve the
18 effectiveness of the program.

19 8. The authority shall adopt, pursuant to the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules
21 and regulations necessary to effectuate the purposes of this act.
22 In developing procedures and forms to be used in connection with
23 the application for and approval of financial assistance pursuant
24 to this act, the authority shall consider the special needs and
25 problems of ²emerging technology and² biotechnology companies
26 in the State.

27 9. This act shall take effect immediately.

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32 Directs EDA to establish financial assistance program for
33 emerging technology and biotechnology industries.

1 9. This act shall take effect immediately.

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STATEMENT

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6 This bill directs the New Jersey Economic Development
7 Authority (EDA) to establish a financial assistance program to
8 assist the development and commercialization of the
9 biotechnology industry in the State. Such a financial assistance
10 program is essential if private industry is to translate
11 biotechnology discoveries into meaningful products for the
12 treatment of diseases, improvements to plants and animals, and
13 other exceptional advances for the betterment of living things.

14 Biotechnology is an emerging technology that designs living
15 organisms which can be used to achieve specific purposes.
16 However, because of the perceived investment risks associated
17 with "cutting edge" technology, biotechnology entrepreneurs in
18 New Jersey are currently having great difficulty arranging for
19 financial assistance. Without this assistance, these entrepreneurs
20 can not pay the varied costs necessarily incurred in the start-up,
21 development, and commercialization of biotechnology products.

22 Since the biotechnology industry is a potentially significant
23 generator of new jobs, and since other states are aware of this
24 potential and are actively involved in promoting the development
25 of the biotechnology industry in their states, it is vital that New
26 Jersey compete for this industry or risk losing an important
27 economic benefit. Therefore, New Jersey can best assist itself
28 and the biotechnology industry in our State by directing the EDA
29 to use its financial expertise to help secure financial assistance
30 for the emerging needs of the biotechnology industry.

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35 Directs Economic Development Authority to establish financial
36 assistance program for biotechnology industry.

SENATE NATURAL RESOURCES, TRADE AND
ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

SENATE, No. 812

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 1994

The Senate Natural Resources, Trade and Economic Development Committee favorably reports Senate Bill No. 812, with Senate committee amendments.

This bill directs the New Jersey Economic Development Authority (EDA) to establish a financial assistance program to assist the development and commercialization of the biotechnology industry in the State. Such a financial assistance program is essential if private industry is to translate biotechnology discoveries into meaningful products for the treatment of diseases, improvements to plants and animals, and other exceptional advances for the betterment of living things.

Biotechnology is an emerging technology that designs living organisms which can be used to achieve specific purposes. Some of these purposes include medical, pharmaceutical, agricultural and environmental remediation. Environmental applications include the development of safe and environmentally sound processes for the removal of toxics from dredge spoils and contaminants from hazardous waste sites, and the development of environmentally sound manufacturing and production systems.

Because of the perceived investment risks associated with "cutting edge" technology, biotechnology entrepreneurs in New Jersey are currently having great difficulty arranging for financial assistance. Without this assistance, these entrepreneurs can not pay the varied costs necessarily incurred in the start-up, development, and commercialization of biotechnology products.

The committee amendments broaden the definition of biotechnology to mean the "continually expanding body of fundamental knowledge about the functioning of biological systems," as well as the products, services and technologies developed from this knowledge. The original definition included only the use of living organisms to produce or modify products, improve plants or animals, or to develop microorganisms for specific purposes.

Other definitional changes limit eligibility for financial assistance only to those biotechnology firms whose headquarters and base of operations are located in New Jersey, and expand the list of eligible lenders under the program to insurance companies, private individuals, venture capitalists and others.

The committee amendments would also authorize the EDA to employ the New Jersey Commission on Science and Technology or any institution of higher education in the State to assist in its approval or disapproval of an application for financial assistance. The amendments also authorize the EDA to enlist the assistance of these organizations in the development of general criteria for the approval or disapproval of applications for assistance.

The committee also amended the bill to define further the eligibility requirements of applicants. These requirements include determinations that: (1) the principal products or services are sufficiently innovative so as to provide a competitive advantage; (2) financial assistance will result in significant employment growth and a high rate of return on investment; and, (3) the applicant has been unable to secure required capital from conventional sources.

Other amendments included in the bill are technical in nature or serve to align the bill's goals with existing EDA assistance program practices.

SENATE BILL NO. 812
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 812 (First Reprint) with my objections for reconsideration.

A. Summary of Bill

This bill directs the New Jersey Economic Development Authority (EDA) to establish a financial assistance program to stimulate increased financing and to help fund the costs incurred by new or expanding biotechnology companies in this State. In implementing this program, the EDA may provide loan guarantees, assistance in establishing lines of credit, technical advice on locating private and public sources of funding, and any other assistance it deems appropriate. The EDA is required to adopt rules and regulations to effectuate the purposes of this bill.

B. Recommended Action

This bill recognizes the importance of emerging technologies to our State's economy by making available necessary financial assistance to the biotechnology industry in the State of New Jersey. I commend the Legislature and the bill's sponsors for their efforts.

I am advised that one of the reasons this program is needed is that biotechnology entrepreneurs are sometimes faced with difficulty in obtaining financial assistance due to the perceived investment risks associated with "cutting edge" technology. Because other emerging technology companies also engage in high risk and costly research and development efforts and are subject to the same financing obstacles, I recommend that the financial assistance program established by this bill be expanded to

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EXECUTIVE DEPARTMENT

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include "emerging technology companies" in order to maximize the benefits of this program.

Moreover, one of the biggest impediments to the growth of the biotechnology industry in this State identified by the joint legislative Biotechnology Development Task Force was the lack of available research facilities. As currently written, this bill only indirectly addresses facilities requirements through the definition of fixed assets. I therefore recommend that the bill be clarified to include the construction, acquisition and development of real estate as an eligible program expense. Additionally, I believe it is appropriate to authorize the EDA, under the umbrella of the Department of Commerce and Economic Development, to provide funds to stimulate the economic development of disadvantaged urban areas.

For these reasons, I herewith return Senate Bill. No. 812 (First Reprint) and recommend that it be amended as follows:

| | |
|------------------------------------|--|
| <u>Page 1, Title, Line 2:</u> | After "of" insert "emerging technology companies and" |
| <u>Page 1, Section 1, Line 9:</u> | After "Jersey" insert "Emerging Technology and" |
| <u>Page 1, Section 2, Line 24:</u> | After "from" insert "emerging technology and" |
| <u>Page 1, Section 2, Line 33:</u> | Delete "a"; after "successful" insert "emerging technology and"; delete "industry" and insert "industries" |
| <u>Page 1, Section 2, Line 34:</u> | Delete "industry" and insert "industries" |
| <u>Page 1, Section 2, Line 36:</u> | After "in" insert "emerging technology and" |
| <u>Page 1, Section 2, Line 38:</u> | After "to" insert "emerging technology and" |
| <u>Page 1, Section 2, Line 39:</u> | Insert new section "f. In considering how to best allocate its resources pursuant to this act, the authority |

should give due consideration to further supporting emerging technology or biotechnology joint ventures by providing economic development funds and assistance to help stimulate growth in disadvantaged urban areas of the State, where public/private partnerships have already been formed, or will be formed, to promote emerging technology and biotechnology research and product development initiatives."

Page 2, Section 3, Line 22:

After "of" delete "a" and insert "an emerging technology or"

Page 2, Section 3, Line 23:

After "assets," insert "such as the construction, acquisition and development of real estate,"

Page 2, Section 3, Line 27:

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

Page 2, Section 3, Line 41:

After "New Jersey" insert "Emerging Technology and"

Page 2, Section 4, Line 46:

After "New Jersey" insert "Emerging Technology and"

Page 2, Section 4, Line 48:

After "expanding" insert "emerging technology and"

Page 2, Section 5, Line 52:

After "New Jersey" insert "Emerging Technology and"

Page 3, Section 5, Lines 13-14:

After "assistance to" insert "emerging technology or"

Page 3, Section 5, Line 17:

After "credit," insert "real estate development assistance,"

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Page 3, Section 6, Line 38: After "by" insert
"emerging technology or"

Page 4, Section 6, Line 2: After "with" insert
"emerging technology or"

Page 4, Section 6, Line 13: After "the" insert
"emerging technology or"

Page 4, Section 6, Line 15: After "the" insert
"emerging technology or"

Page 4, Section 6, Line 20: After "the" insert
"emerging technology or"

Page 4, Section 6, Line 26: After "of" insert
"emerging technology or"

Page 4, Section 6, Line 27: Insert new section "d.
The Department of
Commerce and Economic
Development and the
authority may promote
economic development in
disadvantaged urban areas
of the State, where
emerging technology or
biotechnology joint
ventures have been or
will be established."

Page 4, Section 7, Line 33: After "from" insert
"emerging technology and"

Page 4, Section 7, Line 48: After "of" insert
"emerging technology and"

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Margaret M. Foti

Chief Counsel to the Governor