

**ASSEMBLY, No. 1973**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman NANCY J. PINKIN**

**District 18 (Middlesex)**

**SYNOPSIS**

Increases tax credit provided for qualified investments under “New Jersey Angel Investor Tax Credit Act”; provides additional incentive to businesses located in certain enterprise zones.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the tax credit provided for qualified  
2 investments under the “New Jersey Angel Investor Tax Credit  
3 Act,” and amending P.L.1997, c.349 and P.L.2013, c.14.  
4

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

8 1. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is amended to  
9 read as follows:

10 3. a. A taxpayer, upon approval of the taxpayer's application  
11 therefor by the New Jersey Economic Development Authority and  
12 in consultation with the director, shall be allowed a credit against  
13 the tax imposed pursuant to section 5 of P.L.1945, c.162  
14 (C.54:10A-5), in an amount equal to **10** 20 percent of the  
15 qualified investment made by the taxpayer or, for a taxpayer  
16 engaged in the active conduct of a trade or business in an enterprise  
17 zone that was eligible for an extension of designation pursuant to  
18 section 11 of P.L.2001, c.347 (C.52:27H-66.6) on the effective date  
19 of that act, in an amount equal to 30 percent of the qualified  
20 investment made by the taxpayer in a New Jersey emerging  
21 technology business, or in a New Jersey emerging technology  
22 business holding company that makes a verified transfer of funds to  
23 a New Jersey emerging technology business, up to a maximum  
24 allowed credit of \$500,000 for the tax year for each qualified  
25 investment made by the taxpayer.

26 b. A credit shall not be allowed pursuant to section 1 of  
27 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for  
28 which a credit is allowed, or which are includable in the calculation  
29 of a credit allowed, under this section.

30 Notwithstanding any other provision of law, the order of priority  
31 in which the credit allowed by this section and any other credits  
32 allowed by law may be taken shall be as prescribed by the director.

33 c. Except as provided in subsection d. of this section, the  
34 amount of tax year credit otherwise allowable under this section  
35 which cannot be applied for the tax year against tax liability  
36 otherwise due for that tax year may either be carried over, if  
37 necessary, to the 15 tax years following the tax year for which the  
38 credit was allowed or, at the election of the taxpayer, be claimed as  
39 and treated as an overpayment for the purposes of R.S.54:49-15,  
40 provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1)  
41 shall not apply.

42 d. A taxpayer may not carry over any amount of credit allowed  
43 under subsection a. of this section to a tax year during which a  
44 corporate acquisition with respect to which the taxpayer was a  
45 target corporation occurred or during which the taxpayer was a

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

Matter underlined thus is new matter.

1 party to a merger or a consolidation, or to any subsequent tax year,  
2 if the credit was allowed for a tax year prior to the year of  
3 acquisition, merger or consolidation, except that if in the case of a  
4 corporate merger or corporate consolidation the taxpayer can  
5 demonstrate, through the submission of a copy of the plan of merger  
6 or consolidation and such other evidence as may be required by the  
7 director, the identity of the constituent corporation which was the  
8 acquiring person, a credit allowed to the acquiring person may be  
9 carried over by the taxpayer. As used in this subsection, "acquiring  
10 person" means the constituent corporation the stockholders of  
11 which own the largest proportion of the total voting power in the  
12 surviving or consolidated corporation after the merger or  
13 consolidation.

14 e. The Executive Director of the New Jersey Economic  
15 Development Authority, in consultation with the director, shall  
16 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
17 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary  
18 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-  
19 5.28 through C.54:10A-5.30) and section 4 of P.L.2013, c.14  
20 (C.54A:4-13), including, but not limited to: examples of and the  
21 determination of qualified investments of which applicants shall  
22 provide documentation with their tax credit application; the  
23 promulgation of procedures and forms necessary to apply for a  
24 credit; and provisions for credit applicants to be charged an initial  
25 application fee and ongoing service fees to cover the administrative  
26 costs related to the credit.

27 The amount of credits approved by the Executive Director of the  
28 New Jersey Economic Development Authority, and in consultation  
29 with the director, pursuant to subsection a. of this section and  
30 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not  
31 exceed a cumulative total of **【\$25,000,000】** \$35,000,000 in any  
32 calendar year to apply against the tax imposed pursuant to section 5  
33 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to  
34 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. If  
35 the cumulative amount of credits allowed to taxpayers in a calendar  
36 year exceeds the amount of credits available in that year, then  
37 taxpayers who have first applied for and have not been allowed a  
38 credit amount for that reason shall be allowed, in the order in which  
39 they have submitted an application, the amount of the tax credit on  
40 the first day of the next succeeding calendar year in which tax  
41 credits under this section and section 4 of P.L.2013, c.14 (C.54A:4-  
42 13) are not in excess of the amount of credits available.  
43 (cf: P.L.2017, c.40, s.2)

44  
45 2. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to read  
46 as follows:

47 4. a. A taxpayer, upon approval of the taxpayer's application  
48 therefor by the New Jersey Economic Development Authority, and

1 in consultation with the director, shall be allowed a credit against  
2 the tax otherwise due for the taxable year under the "New Jersey  
3 Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal  
4 to ~~10~~ 20 percent of the qualified investment made by the taxpayer  
5 or, for a taxpayer engaged in the active conduct of a trade or  
6 business in an enterprise zone that was eligible for an extension of  
7 designation pursuant to section 11 of P.L.2001, c.347 (C.52:27H-  
8 66.6) on the effective date of that act, in an amount equal to 30  
9 percent of the qualified investment made by the taxpayer in a New  
10 Jersey emerging technology business, or in a New Jersey emerging  
11 technology business holding company that makes a verified transfer  
12 of funds to a New Jersey emerging technology business, up to a  
13 maximum allowed credit of \$500,000 for the taxable year for each  
14 qualified investment made by the taxpayer.

15 b. The amount of the credit allowed pursuant to this section  
16 shall be applied against the tax otherwise due under the "New  
17 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other  
18 credits and payments. If the credit exceeds the amount of tax  
19 liability otherwise due, that amount of excess shall be an  
20 overpayment for the purposes of N.J.S.54A:9-7, provided, however,  
21 that subsection (f) of N.J.S.54A:9-7 shall not apply.

22 c. (1) A partnership shall not be allowed a credit under this  
23 section directly, but the amount of credit of a taxpayer in respect of  
24 a distributive share of partnership income under the "New Jersey  
25 Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined  
26 by allocating to the taxpayer that proportion of the credit acquired  
27 by the partnership that is equal to the taxpayer's share, whether or  
28 not distributed, of the total distributive income or gain of the  
29 partnership for its taxable year ending within or with the taxpayer's  
30 taxable year. For the purposes of subsection b. of this section, the  
31 amount of tax liability that would be otherwise due of a taxpayer is  
32 that proportion of the total liability of the taxpayer that the  
33 taxpayer's share of the partnership income or gain included in gross  
34 income bears to the total gross income of the taxpayer.

35 (2) The credit for a corporation that has made a valid election as  
36 a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173  
37 (C.54:10A-5.22) may be applied by the shareholders of the S  
38 corporation against the tax liability otherwise due under the "New  
39 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., provided that  
40 the amount of credit that may be used by a shareholder of the S  
41 corporation shall be determined by allocating to each shareholder of  
42 the S corporation that proportion of the tax credit of the S  
43 corporation that is equal to the shareholder's proportionate share of  
44 the S corporation, whether or not distributed, of the total  
45 distributive income or gain of the S corporation for its tax period  
46 ending with or within the shareholder's tax period, and the credit  
47 may be applied by the shareholders against the tax liability

1 otherwise due pursuant to the "New Jersey Gross Income Tax Act,"  
2 N.J.S.54A:1-1 et seq.

3 d. The Executive Director of the New Jersey Economic  
4 Development Authority, in consultation with the director, shall  
5 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
6 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary  
7 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-  
8 5.28 through C.54:10A-5.30) and this section, including, but not  
9 limited to: examples of and the determination of qualified  
10 investments of which applicants shall provide documentation with  
11 their tax credit application; the promulgation of procedures and  
12 forms necessary to apply for a credit; and provisions for credit  
13 applicants to be charged an initial application fee and ongoing  
14 service fees to cover the administrative costs related to the credit.

15 The amount of credits approved by the Executive Director of the  
16 New Jersey Economic Development Authority and the Director of  
17 the Division of Taxation in the Department of the Treasury,  
18 pursuant to subsection a. of this section and pursuant to section 3 of  
19 P.L.1997, c.349 (C.54:10A-5.30), shall not exceed a cumulative  
20 total of ~~【\$25,000,000】~~ \$35,000,000 in any calendar year to apply  
21 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
22 (C.54:10A-5), and the tax imposed pursuant to the "New Jersey  
23 Gross Income Tax Act," N.J.S.54A:1-1 et seq. If the cumulative  
24 amount of credits allowed to taxpayers in a calendar year exceeds  
25 the amount of credits available in that year, then taxpayers who  
26 have first applied for and have not been allowed a credit amount for  
27 that reason shall be allowed, in the order in which they have  
28 submitted an application, the amount of the tax credit on the first  
29 day of the next succeeding calendar year in which tax credits under  
30 this section and section 3 of P.L.1997, c.349 (C.54:10A-5.30) are  
31 not in excess of the amount of credits available.

32 e. As used in this section:

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

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

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

1 "Carbon footprint reduction technology" means a technology  
2 using equipment for the commercial, institutional, and industrial  
3 sectors that: increases energy efficiency; develops and delivers  
4 renewable or non-carbon-emitting energy technologies; develops  
5 innovative carbon emissions abatement with significant carbon  
6 emissions reduction potential; or promotes measurable electricity  
7 end-use energy efficiency.

8 "Control" with respect to a corporation, means ownership,  
9 directly or indirectly, of stock possessing 80 percent or more of the  
10 total combined voting power of all classes of the stock of the  
11 corporation entitled to vote; and "control," with respect to a trust,  
12 means ownership, directly or indirectly, of 80 percent or more of  
13 the beneficial interest in the principal or income of the trust. The  
14 ownership of stock in a corporation, of a capital or profits interest in  
15 a partnership or association or of a beneficial interest in a trust shall  
16 be determined in accordance with the rules for constructive  
17 ownership of stock provided in subsection (c) of section 267 of the  
18 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than  
19 paragraph (3) of subsection (c) of that section.

20 "Controlled group" means one or more chains of corporations  
21 connected through stock ownership with a common parent  
22 corporation if stock possessing at least 80 percent of the voting  
23 power of all classes of stock of each of the corporations is owned  
24 directly or indirectly by one or more of the corporations and the  
25 common parent owns directly stock possessing at least 80 percent of  
26 the voting power of all classes of stock of at least one of the other  
27 corporations.

28 "Director" means the Director of the Division of Taxation in the  
29 Department of the Treasury.

30 "Electronic device technology" means a technology involving  
31 microelectronics, semiconductors, electronic equipment and  
32 instrumentation, radio frequency, microwave and millimeter  
33 electronics, and optical and optic-electrical devices, or data and  
34 digital communications and imaging devices.

35 "Information technology" means software publishing, motion  
36 picture and video production, television production and post-  
37 production services, telecommunications, data processing, hosting  
38 and related services, custom computer programming services,  
39 computer system design, computer facilities management services,  
40 other computer related services, and computer training.

41 "Life sciences" means the production of medical equipment,  
42 ophthalmic goods, medical or dental instruments, diagnostic  
43 substances, biopharmaceutical products, or physical and biological  
44 research.

45 "Medical device technology" means a technology involving any  
46 medical equipment or product (other than a pharmaceutical product)  
47 that has therapeutic value, diagnostic value, or both, and is  
48 regulated by the federal Food and Drug Administration.

1 "Mobile communications technology" means a technology  
2 involving the functionality and reliability of the transmission of  
3 voice and multimedia data using a communication infrastructure via  
4 a computer or a mobile device, that shall include, but not be limited  
5 to, smartphones, electronic books and tablets, digital audio players,  
6 motor vehicle electronics, home entertainment systems, and other  
7 wireless appliances, without having connected to any physical or  
8 fixed link.

9 "New Jersey emerging technology business" means a company  
10 with fewer than 225 employees, of whom at least 75 percent are  
11 filling a position in New Jersey, that is doing business, employing  
12 or owning capital or property, or maintaining an office in this State  
13 and: has qualified research expenses paid or incurred for research  
14 conducted in this State; conducts pilot scale manufacturing in this  
15 State; or conducts technology commercialization in this State in the  
16 fields of advanced computing, advanced materials, biotechnology,  
17 carbon footprint reduction technology, electronic device  
18 technology, information technology, life sciences, medical device  
19 technology, mobile communications technology, or renewable  
20 energy technology.

21 "New Jersey emerging technology business holding company"  
22 means any corporation, association, firm, partnership, trust or other  
23 form of business organization, but not a natural person, which  
24 directly or indirectly, owns, has the power or right to control, or has  
25 the power to vote, a controlling share of the outstanding voting  
26 securities of a corporation or other form of a New Jersey emerging  
27 technology business.

28 "Partnership" means a syndicate, group, pool, joint venture, or  
29 other unincorporated organization through or by means of which  
30 any business, financial operation, or venture is carried on, and  
31 which is not a trust or estate, a corporation, or a sole proprietorship.

32 "Pilot scale manufacturing" means design, construction, and  
33 testing of preproduction prototypes and models in the fields of  
34 advanced computing, advanced materials, biotechnology, carbon  
35 footprint reduction technology electronic device technology,  
36 information technology, life sciences, medical device technology,  
37 mobile communications technology, or renewable energy  
38 technology, other than for commercial sale, excluding sales of  
39 prototypes or sales for market testing if the total gross receipts, as  
40 calculated in the manner provided in section 6 of P.L.1945, c.162  
41 (C.54:10A-6), from the sales of the product, service, or process do  
42 not exceed \$1,000,000.

43 "Qualified investment" means the non-refundable transfer of  
44 cash to a New Jersey emerging technology business or to a New  
45 Jersey emerging technology business holding company by a  
46 taxpayer that is not a related person of the New Jersey emerging  
47 technology business or the New Jersey emerging technology  
48 business holding company, the transfer of which is in connection

1 with either: a transaction between or among the taxpayer and the  
2 New Jersey emerging technology business or the New Jersey  
3 emerging technology holding company or both in exchange for  
4 stock, interests in partnerships or joint ventures, licenses (exclusive  
5 or non-exclusive), rights to use technology, marketing rights,  
6 warrants, options, or any items similar to those included herein,  
7 including, but not limited to, options or rights to acquire any of the  
8 items included herein; or a purchase, production, or research  
9 agreement between or among the taxpayer and the New Jersey  
10 emerging technology business or the New Jersey emerging  
11 technology holding company or both.

12 "Qualified research expenses" means qualified research  
13 expenses, as defined in section 41 of the federal Internal Revenue  
14 Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992, in the  
15 fields of advanced computing, advanced materials, biotechnology,  
16 electronic device technology, information technology, life sciences,  
17 medical device technology, mobile communications technology, or  
18 renewable energy technology.

19 "Related person" means:

20 a corporation, partnership, association or trust controlled by the  
21 taxpayer;

22 an individual, corporation, partnership, association or trust that is  
23 in the control of the taxpayer;

24 a corporation, partnership, association or trust controlled by an  
25 individual, corporation, partnership, association or trust that is in  
26 the control of the taxpayer; or

27 a member of the same controlled group as the taxpayer.

28 "Renewable energy technology" means a technology involving  
29 the generation of electricity from solar energy; wind energy; wave  
30 or tidal action; geothermal energy; the combustion of gas from the  
31 anaerobic digestion of food waste and sewage sludge at a biomass  
32 generating facility; the combustion of methane gas captured from a  
33 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,  
34 digester gas, biomass gas, or other renewable fuel but not powered  
35 by a fossil fuel.

36 "Verified transfer of funds" means a non-refundable transfer of  
37 funds equal to 100 percent of the taxpayer's qualified investment in  
38 the New Jersey emerging technology business holding company to a  
39 New Jersey emerging technology business by the New Jersey  
40 emerging technology business holding company that is  
41 accompanied by documentation, as required by the New Jersey  
42 Economic Development Authority, which provides proof of a cash  
43 transaction originating with a taxpayer and concluding with a New  
44 Jersey emerging technology business, provided that the transactions  
45 from origin to destination occur within the same taxable year.

46 (cf: P.L.2017, c.40, s.3)



1       3. This act shall take effect immediately and apply  
2 retroactively to qualified investments made on or after January 1,  
3 2018.

4  
5  
6                               STATEMENT

7  
8       This bill increases the tax credit provided for qualified  
9 investments under the “New Jersey Angel Investor Tax Credit Act”  
10 and increases the Statewide cap on credits.

11       Currently, the Angel Investor Tax Credit Program provides a tax  
12 credit in an amount equal to 10 percent of the angel investors’  
13 qualified investment in New Jersey emerging technology companies  
14 with fewer than 225 employees, where at least 75 percent of those  
15 positions are located in the State. The bill increases the tax credit  
16 amount to 20 percent of the angel investors’ qualified investment.

17       In addition, the bill allows a tax credit of 30 percent of the  
18 qualified investment by a taxpayer engaged in the active conduct of  
19 a trade or business in an enterprise zone that was eligible for an  
20 extension of designation pursuant to N.J.S.A.52:27H-66.6 on the  
21 effective date of that statute. The five enterprise zones eligible for  
22 an extension on that effective date were Bridgeton, Camden,  
23 Newark, Plainfield, and Trenton. Qualifying retail businesses in  
24 these enterprise zones were permitted to charge and collect the  
25 State’s sales and use tax at one-half of the normal rate. The  
26 designation of these enterprise zones expired on December 31, 2016  
27 at which time qualifying businesses in the zones could no longer  
28 charge and collect the sales tax at the reduced rate.

29       Under the “New Jersey Angel Investor Tax Credit Act,”  
30 qualified investments include non-refundable transfers of cash made  
31 directly to the New Jersey emerging technology business in  
32 connection with either stock, interests in partnerships or joint  
33 ventures, licenses (exclusive or non-exclusive), rights to use  
34 technology, marketing rights, warrants, options, or any similar  
35 items, including but not limited to options or rights to acquire any  
36 of the listed or a purchase, production, or research agreement.

37       Tax credits awarded pursuant to the Angel Investor Tax Credit  
38 Program are considered to be refundable tax credits, and the  
39 program is capped at \$25 million annually. This bill raises that cap  
40 to \$35 million annually.

41       The bill is retroactive to January 1, 2018.