

**54:10A-5.30 and 54A:4-13  
LEGISLATIVE HISTORY CHECKLIST**

Compiled by the NJ State Law Library

**LAWS OF:** 2019                **CHAPTER:** 145

**NJSA:** 54:10A-5.30 and 54A:4-13 (Increases tax credit provided for qualified investments under "New Jersey Angel Investor Tax Credit Act.")

**BILL NO:** A5604              (Substituted for A3677/S2298)

**SPONSOR(S)** Roy Freiman and others

**DATE INTRODUCED:** 6/17/2019

**COMMITTEE:**            **ASSEMBLY:** Budget

**SENATE:** Economic Growth  
Budget & Appreciation

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**          **ASSEMBLY:** 6/20/2019

**SENATE:** 6/27/2019

**DATE OF APPROVAL:** 6/30/2019

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Introduced bill enacted) Yes

**A5604**

**SPONSOR'S STATEMENT:** (Begins on page 9 of introduced bill) Yes

**COMMITTEE STATEMENT:**                        **ASSEMBLY:** Yes

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**A3677**

**SPONSOR'S STATEMENT:** (Begins on page 8 of introduced bill) Yes

**COMMITTEE STATEMENT:**                        **ASSEMBLY:** No

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

(continued)

**S2298**

**SPONSOR'S STATEMENT:** (Begins on page 8 of introduced bill) Yes

**COMMITTEE STATEMENT:**

**ASSEMBLY:** No

**SENATE:** Yes Economic Growth  
Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RWH/CL

P.L. 2019, CHAPTER 145, *approved June 30, 2019*  
Assembly, No. 5604

1 AN ACT increasing the tax credit provided for qualified investments  
2 under the “New Jersey Angel Investor Tax Credit Act,” and  
3 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. (New section) The Legislature finds and declares that:

9 a. The State’s economic development plan included a goal of  
10 creating the most diverse innovation ecosystem in the nation and  
11 doubling venture capital in the State.

12 b. Women-owned and minority-owned businesses make up a  
13 disproportionately small percentage of emerging technology  
14 business, with estimates as low as one percent of funded emerging  
15 technology business owned by African Americans and eight percent  
16 of funded emerging technology business owned by women.

17 c. New Jersey has lagged behind the rest of the nation in the  
18 growth of women-owned and minority-owned businesses, ranking  
19 33rd nationwide in the growth of women-owned firms since 2007  
20 and 30th in the growth of minority-owned businesses since 2014.  
21

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

24 3 a. (1) A taxpayer, upon approval of the taxpayer's application  
25 therefor by the New Jersey Economic Development Authority and in  
26 consultation with the director, shall be allowed a credit against the tax  
27 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an  
28 amount equal to **[10]** 20 percent of the qualified investment made by  
29 the taxpayer in a New Jersey emerging technology business, or in a  
30 New Jersey emerging technology business holding company that  
31 makes a verified transfer of funds to a New Jersey emerging  
32 technology business **[, up to a maximum allowed credit of]** ;  
33 provided, however, a taxpayer may be allowed a tax credit in an  
34 amount equal to 25 percent of the qualified investment if the taxpayer  
35 satisfies one of the requirements set forth in paragraph (2) of this  
36 subsection. The value of tax credits allowed to a taxpayer pursuant to  
37 this section shall not exceed \$500,000 for the [tax year] privilege  
38 period for each qualified investment made by the taxpayer.

39 (2) Subject to the limits established in paragraph (1) of this  
40 subsection, the New Jersey Economic Development Authority, in  
41 consultation with the director, shall increase the amount of a tax credit

**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 allowed pursuant to this section by five percent if the taxpayer makes a  
2 qualified investment in a New Jersey emerging technology business, or  
3 in a New Jersey emerging technology business holding company that  
4 makes a verified transfer of funds to a New Jersey emerging  
5 technology business, if the New Jersey emerging technology business  
6 is:

7 (a) located in a qualified opportunity zone pursuant to 26 U.S.C.  
8 s.1400Z-1, or a low-income community as defined in subparagraph (e)  
9 of 26 U.S.C. s.45D; or

10 (b) certified by the State as a minority business or a women's  
11 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.).

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

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

19 c. Except as provided in subsection d. of this section, the amount  
20 of **[tax year]** credit otherwise allowable under this section which  
21 cannot be applied for the **[tax year]** privilege period against tax  
22 liability otherwise due for that **[tax year]** privilege period may either  
23 be carried over, if necessary, to the 15 **[tax years]** privilege periods  
24 following the **[tax year]** privilege period for which the credit was  
25 allowed or, at the election of the taxpayer, be claimed as and treated as  
26 an overpayment for the purposes of R.S.54:49-15, provided, however,  
27 that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

28 d. A taxpayer may not carry over any amount of credit allowed  
29 under subsection a. of this section to a **[tax year]** privilege period  
30 during which a corporate acquisition with respect to which the  
31 taxpayer was a target corporation occurred or during which the  
32 taxpayer was a party to a merger or a consolidation, or to any  
33 subsequent **[tax year]** privilege period, if the credit was allowed for a  
34 **[tax year]** privilege period prior to the year of acquisition, merger or  
35 consolidation, except that if in the case of a corporate merger or  
36 corporate consolidation the taxpayer can demonstrate, through the  
37 submission of a copy of the plan of merger or consolidation and such  
38 other evidence as may be required by the director, the identity of the  
39 constituent corporation which was the acquiring person, a credit  
40 allowed to the acquiring person may be carried over by the taxpayer.  
41 As used in this subsection, "acquiring person" means the constituent  
42 corporation the stockholders of which own the largest proportion of  
43 the total voting power in the surviving or consolidated corporation  
44 after the merger or consolidation.

45 e. The Executive Director of the New Jersey Economic  
46 Development Authority, in consultation with the director, shall adopt,  
47 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
48 (C.52:14B-1 et seq.), rules and regulations that are necessary to

1 implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28  
2 through C.54:10A-5.30) and section 4 of P.L.2013, c.14 (C.54A:4-13),  
3 including, but not limited to: examples of and the determination of  
4 qualified investments of which applicants shall provide documentation  
5 with their tax credit application; the promulgation of procedures and  
6 forms necessary to apply for a credit; and provisions for credit  
7 applicants to be charged an initial application fee and ongoing service  
8 fees to cover the administrative costs related to the credit.

9 The amount of credits approved by the Executive Director of the  
10 New Jersey Economic Development Authority, and in consultation  
11 with the director, pursuant to subsection a. of this section and pursuant  
12 to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not exceed a  
13 cumulative total of \$25,000,000 in any calendar year to apply against  
14 the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)  
15 and the tax imposed pursuant to the "New Jersey Gross Income Tax  
16 Act," N.J.S.54A:1-1 et seq. If the cumulative amount of credits  
17 allowed to taxpayers in a calendar year exceeds the amount of credits  
18 available in that year, then taxpayers who have first applied for and  
19 have not been allowed a credit amount for that reason shall be allowed,  
20 in the order in which they have submitted an application, the amount  
21 of the tax credit on the first day of the next succeeding calendar year in  
22 which tax credits under this section and section 4 of P.L.2013, c.14  
23 (C.54A:4-13) are not in excess of the amount of credits available.  
24 (cf: P.L.2017, c.40, s.2)

25

26 3. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to read as  
27 follows:

28 4. a. (1) A taxpayer, upon approval of the taxpayer's application  
29 therefor by the New Jersey Economic Development Authority, and in  
30 consultation with the director, shall be allowed a credit against the tax  
31 otherwise due for the taxable year under the "New Jersey Gross  
32 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to **[10]**  
33 **20** percent of the qualified investment made by the taxpayer in a New  
34 Jersey emerging technology business, or in a New Jersey emerging  
35 technology business holding company that makes a verified transfer of  
36 funds to a New Jersey emerging technology business **[**, up to a  
37 maximum allowed credit of **]** ; provided, however, a taxpayer may be  
38 allowed a tax credit in an amount equal to 25 percent of the qualified  
39 investment if the taxpayer satisfies one of the requirements set forth in  
40 paragraph (2) of this subsection. The value of tax credits allowed to a  
41 taxpayer pursuant to this section shall not exceed \$500,000 for the  
42 taxable year for each qualified investment made by the taxpayer.

43 (2) Subject to the limits established in paragraph (1) of this  
44 subsection, the New Jersey Economic Development Authority, in  
45 consultation with the director, shall increase the amount of a tax credit  
46 allowed pursuant to this section by five percent if the taxpayer makes a  
47 qualified investment in a New Jersey emerging technology business, or  
48 in a New Jersey emerging technology business holding company that

1 makes a verified transfer of funds to a New Jersey emerging  
2 technology business, if the New Jersey emerging technology business  
3 is:

4 (a) located in a qualified opportunity zone pursuant to 26 U.S.C.  
5 s.1400Z-1, or a low-income community as defined in 26 U.S.C. s.45D;

6 or

7 (b) certified by the State as a minority business or a women's  
8 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.).

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

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

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

43 d. The Executive Director of the New Jersey Economic  
44 Development Authority, in consultation with the director, shall adopt,  
45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
46 (C.52:14B-1 et seq.), rules and regulations that are necessary to  
47 implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28  
48 through C.54:10A-5.30) and this section, including, but not limited to:

1 examples of and the determination of qualified investments of which  
2 applicants shall provide documentation with their tax credit  
3 application; the promulgation of procedures and forms necessary to  
4 apply for a credit; and provisions for credit applicants to be charged an  
5 initial application fee and ongoing service fees to cover the  
6 administrative costs related to the credit.

7 The amount of credits approved by the Executive Director of the  
8 New Jersey Economic Development Authority and the Director of the  
9 Division of Taxation in the Department of the Treasury, pursuant to  
10 subsection a. of this section and pursuant to section 3 of P.L.1997,  
11 c.349 (C.54:10A-5.30), shall not exceed a cumulative total of  
12 \$25,000,000 in any calendar year to apply against the tax imposed  
13 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and the tax  
14 imposed pursuant to the "New Jersey Gross Income Tax Act,"  
15 N.J.S.54A:1-1 et seq. If the cumulative amount of credits allowed to  
16 taxpayers in a calendar year exceeds the amount of credits available in  
17 that year, then taxpayers who have first applied for and have not been  
18 allowed a credit amount for that reason shall be allowed, in the order  
19 in which they have submitted an application, the amount of the tax  
20 credit on the first day of the next succeeding calendar year in which  
21 tax credits under this section and section 3 of P.L.1997, c.349  
22 (C.54:10A-5.30) are not in excess of the amount of credits available.

23 e. As used in this section:

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

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

32 "Biotechnology" means the continually expanding body of  
33 fundamental knowledge about the functioning of biological systems  
34 from the macro level to the molecular and sub-atomic levels, as well as  
35 novel products, services, technologies, and sub-technologies  
36 developed as a result of insights gained from research advances which  
37 add to that body of fundamental knowledge.

38 "Carbon footprint reduction technology" means a technology using  
39 equipment for the commercial, institutional, and industrial sectors that:  
40 increases energy efficiency; develops and delivers renewable or non-  
41 carbon-emitting energy technologies; develops innovative carbon  
42 emissions abatement with significant carbon emissions reduction  
43 potential; or promotes measurable electricity end-use energy  
44 efficiency.

45 "Control" with respect to a corporation, means ownership, directly  
46 or indirectly, of stock possessing 80 percent or more of the total  
47 combined voting power of all classes of the stock of the corporation  
48 entitled to vote; and "control," with respect to a trust, means

1 ownership, directly or indirectly, of 80 percent or more of the  
2 beneficial interest in the principal or income of the trust. The  
3 ownership of stock in a corporation, of a capital or profits interest in a  
4 partnership or association or of a beneficial interest in a trust shall be  
5 determined in accordance with the rules for constructive ownership of  
6 stock provided in subsection (c) of section 267 of the federal Internal  
7 Revenue Code of 1986 (26 U.S.C. s.267), other than paragraph (3) of  
8 subsection (c) of that section.

9 "Controlled group" means one or more chains of corporations  
10 connected through stock ownership with a common parent corporation  
11 if stock possessing at least 80 percent of the voting power of all classes  
12 of stock of each of the corporations is owned directly or indirectly by  
13 one or more of the corporations and the common parent owns directly  
14 stock possessing at least 80 percent of the voting power of all classes  
15 of stock of at least one of the other corporations.

16 "Director" means the Director of the Division of Taxation in the  
17 Department of the Treasury.

18 "Electronic device technology" means a technology involving  
19 microelectronics, semiconductors, electronic equipment and  
20 instrumentation, radio frequency, microwave and millimeter  
21 electronics, and optical and optic-electrical devices, or data and digital  
22 communications and imaging devices.

23 "Information technology" means software publishing, motion  
24 picture and video production, television production and post-  
25 production services, telecommunications, data processing, hosting and  
26 related services, custom computer programming services, computer  
27 system design, computer facilities management services, other  
28 computer related services, and computer training.

29 "Life sciences" means the production of medical equipment,  
30 ophthalmic goods, medical or dental instruments, diagnostic  
31 substances, biopharmaceutical products, or physical and biological  
32 research.

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

37 "Mobile communications technology" means a technology  
38 involving the functionality and reliability of the transmission of voice  
39 and multimedia data using a communication infrastructure via a  
40 computer or a mobile device, that shall include, but not be limited to,  
41 smartphones, electronic books and tablets, digital audio players, motor  
42 vehicle electronics, home entertainment systems, and other wireless  
43 appliances, without having connected to any physical or fixed link.

44 "New Jersey emerging technology business" means a company  
45 with fewer than 225 employees, of whom at least 75 percent are filling  
46 a position in New Jersey, that is doing business, employing or owning  
47 capital or property, or maintaining an office in this State and: has  
48 qualified research expenses paid or incurred for research conducted in



1 this State; conducts pilot scale manufacturing in this State; or conducts  
2 technology commercialization in this State in the fields of advanced  
3 computing, advanced materials, biotechnology, carbon footprint  
4 reduction technology, electronic device technology, information  
5 technology, life sciences, medical device technology, mobile  
6 communications technology, or renewable energy technology.

7 "New Jersey emerging technology business holding company"  
8 means any corporation, association, firm, partnership, trust or other  
9 form of business organization, but not a natural person, which directly  
10 or indirectly, owns, has the power or right to control, or has the power  
11 to vote, a controlling share of the outstanding voting securities of a  
12 corporation or other form of a New Jersey emerging technology  
13 business.

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

18 "Pilot scale manufacturing" means design, construction, and  
19 testing of preproduction prototypes and models in the fields of  
20 advanced computing, advanced materials, biotechnology, carbon  
21 footprint reduction technology electronic device technology,  
22 information technology, life sciences, medical device technology,  
23 mobile communications technology, or renewable energy technology,  
24 other than for commercial sale, excluding sales of prototypes or sales  
25 for market testing if the total gross receipts, as calculated in the  
26 manner provided in section 6 of P.L.1945, c.162 (C.54:10A-6), from  
27 the sales of the product, service, or process do not exceed \$1,000,000.

28 "Qualified investment" means the non-refundable transfer of cash  
29 to a New Jersey emerging technology business or to a New Jersey  
30 emerging technology business holding company by a taxpayer that is  
31 not a related person of the New Jersey emerging technology business  
32 or the New Jersey emerging technology business holding company, the  
33 transfer of which is in connection with either: a transaction between or  
34 among the taxpayer and the New Jersey emerging technology business  
35 or the New Jersey emerging technology holding company or both in  
36 exchange for stock, interests in partnerships or joint ventures, licenses  
37 (exclusive or non-exclusive), rights to use technology, marketing  
38 rights, warrants, options, or any items similar to those included herein,  
39 including, but not limited to, options or rights to acquire any of the  
40 items included herein; or a purchase, production, or research  
41 agreement between or among the taxpayer and the New Jersey  
42 emerging technology business or the New Jersey emerging technology  
43 holding company or both.

44 "Qualified research expenses" means qualified research expenses,  
45 as defined in section 41 of the federal Internal Revenue Code of 1986  
46 (26 U.S.C. s.41), as in effect on June 30, 1992, in the fields of  
47 advanced computing, advanced materials, biotechnology, electronic  
48 device technology, information technology, life sciences, medical

1 device technology, mobile communications technology, or renewable  
2 energy technology.

3 "Related person" means:

4 a corporation, partnership, association or trust controlled by the  
5 taxpayer;

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

8 a corporation, partnership, association or trust controlled by an  
9 individual, corporation, partnership, association or trust that is in the  
10 control of the taxpayer; or

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

12 "Renewable energy technology" means a technology involving the  
13 generation of electricity from solar energy; wind energy; wave or tidal  
14 action; geothermal energy; the combustion of gas from the anaerobic  
15 digestion of food waste and sewage sludge at a biomass generating  
16 facility; the combustion of methane gas captured from a landfill; and a  
17 fuel cell powered by methanol, ethanol, landfill gas, digester gas,  
18 biomass gas, or other renewable fuel but not powered by a fossil fuel.

19 "Verified transfer of funds" means a non-refundable transfer of  
20 funds equal to 100 percent of the taxpayer's qualified investment in the  
21 New Jersey emerging technology business holding company to a New  
22 Jersey emerging technology business by the New Jersey emerging  
23 technology business holding company that is accompanied by  
24 documentation, as required by the New Jersey Economic Development  
25 Authority, which provides proof of a cash transaction originating with  
26 a taxpayer and concluding with a New Jersey emerging technology  
27 business, provided that the transactions from origin to destination  
28 occur within the same taxable year.

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

30

31 4. This act shall take effect immediately and shall apply to  
32 qualified investments made during privilege periods and taxable  
33 years beginning on and after January 1, 2020.

34

35

36

#### STATEMENT

37

38 This bill increases the amount of the corporation business and  
39 gross income tax credits that are available for qualified investments  
40 under the "New Jersey Angel Investor Tax Credit Act," from 10 to  
41 20 percent of the qualified investment made by a taxpayer in a New  
42 Jersey emerging technology business or in a New Jersey emerging  
43 technology business holding company that makes a verified transfer  
44 of funds to a New Jersey emerging technology business. The bill,  
45 however, also provides that a taxpayer may be allowed a tax credit  
46 in an amount equal to 25 percent of the qualified investment if the  
47 emerging technology business is located in a qualified opportunity  
48 zone or low-income community, as those terms are defined in

1 federal law, or is certified by the State as a minority or women's  
2 business.

3

4

5

6

7 \_\_\_\_\_  
8 Increases tax credit provided for qualified investments under  
"New Jersey Angel Investor Tax Credit Act."

# ASSEMBLY, No. 5604

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 17, 2019

**Sponsored by:**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman NANCY J. PINKIN**

**District 18 (Middlesex)**

**Assemblyman MATTHEW W. MILAM**

**District 1 (Atlantic, Cape May and Cumberland)**

**Assemblyman CHRISTOPHER P. DEPHILLIPS**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Assemblyman ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman R. BRUCE LAND**

**District 1 (Atlantic, Cape May and Cumberland)**

**Senator KRISTIN M. CORRADO**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Co-Sponsored by:**

**Assemblyman Tully, Assemblywoman Swain, Assemblyman Johnson,**

**Assemblywoman Quijano, Senators A.R.Bucco, Oroho and Greenstein**

**SYNOPSIS**

Increases tax credit provided for qualified investments under “New Jersey Angel Investor Tax Credit Act.”

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 6/28/2019)

1 AN ACT increasing the tax credit provided for qualified investments  
2 under the “New Jersey Angel Investor Tax Credit Act,” and  
3 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. (New section) The Legislature finds and declares that:

9 a. The State’s economic development plan included a goal of  
10 creating the most diverse innovation ecosystem in the nation and  
11 doubling venture capital in the State.

12 b. Women-owned and minority-owned businesses make up a  
13 disproportionately small percentage of emerging technology  
14 business, with estimates as low as one percent of funded emerging  
15 technology business owned by African Americans and eight percent  
16 of funded emerging technology business owned by women.

17 c. New Jersey has lagged behind the rest of the nation in the  
18 growth of women-owned and minority-owned businesses, ranking  
19 33rd nationwide in the growth of women-owned firms since 2007  
20 and 30th in the growth of minority-owned businesses since 2014.  
21

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

24 3 a. (1) A taxpayer, upon approval of the taxpayer's application  
25 therefor by the New Jersey Economic Development Authority and in  
26 consultation with the director, shall be allowed a credit against the tax  
27 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an  
28 amount equal to **[10]** 20 percent of the qualified investment made by  
29 the taxpayer in a New Jersey emerging technology business, or in a  
30 New Jersey emerging technology business holding company that  
31 makes a verified transfer of funds to a New Jersey emerging  
32 technology business **[, up to a maximum allowed credit of]** ;  
33 provided, however, a taxpayer may be allowed a tax credit in an  
34 amount equal to 25 percent of the qualified investment if the taxpayer  
35 satisfies one of the requirements set forth in paragraph (2) of this  
36 subsection. The value of tax credits allowed to a taxpayer pursuant to  
37 this section shall not exceed \$500,000 for the [tax year] privilege  
38 period for each qualified investment made by the taxpayer.

39 (2) Subject to the limits established in paragraph (1) of this  
40 subsection, the New Jersey Economic Development Authority, in  
41 consultation with the director, shall increase the amount of a tax credit  
42 allowed pursuant to this section by five percent if the taxpayer makes a  
43 qualified investment in a New Jersey emerging technology business, or  
44 in a New Jersey emerging technology business holding company that  
45 makes a verified transfer of funds to a New Jersey emerging

**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 technology business, if the New Jersey emerging technology business  
2 is:

3 (a) located in a qualified opportunity zone pursuant to 26 U.S.C.  
4 s.1400Z-1, or a low-income community as defined in subparagraph (e)  
5 of 26 U.S.C. s.45D; or

6 (b) certified by the State as a minority business or a women's  
7 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.).

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

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

15 c. Except as provided in subsection d. of this section, the amount  
16 of [tax year] credit otherwise allowable under this section which  
17 cannot be applied for the [tax year] privilege period against tax  
18 liability otherwise due for that [tax year] privilege period may either  
19 be carried over, if necessary, to the 15 [tax years] privilege periods  
20 following the [tax year] privilege period for which the credit was  
21 allowed or, at the election of the taxpayer, be claimed as and treated as  
22 an overpayment for the purposes of R.S.54:49-15, provided, however,  
23 that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

24 d. A taxpayer may not carry over any amount of credit allowed  
25 under subsection a. of this section to a [tax year] privilege period  
26 during which a corporate acquisition with respect to which the  
27 taxpayer was a target corporation occurred or during which the  
28 taxpayer was a party to a merger or a consolidation, or to any  
29 subsequent [tax year] privilege period, if the credit was allowed for a  
30 [tax year] privilege period prior to the year of acquisition, merger or  
31 consolidation, except that if in the case of a corporate merger or  
32 corporate consolidation the taxpayer can demonstrate, through the  
33 submission of a copy of the plan of merger or consolidation and such  
34 other evidence as may be required by the director, the identity of the  
35 constituent corporation which was the acquiring person, a credit  
36 allowed to the acquiring person may be carried over by the taxpayer.  
37 As used in this subsection, "acquiring person" means the constituent  
38 corporation the stockholders of which own the largest proportion of  
39 the total voting power in the surviving or consolidated corporation  
40 after the merger or consolidation.

41 e. The Executive Director of the New Jersey Economic  
42 Development Authority, in consultation with the director, shall adopt,  
43 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
44 (C.52:14B-1 et seq.), rules and regulations that are necessary to  
45 implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28  
46 through C.54:10A-5.30) and section 4 of P.L.2013, c.14 (C.54A:4-13),  
47 including, but not limited to: examples of and the determination of  
48 qualified investments of which applicants shall provide documentation

1 with their tax credit application; the promulgation of procedures and  
2 forms necessary to apply for a credit; and provisions for credit  
3 applicants to be charged an initial application fee and ongoing service  
4 fees to cover the administrative costs related to the credit.

5 The amount of credits approved by the Executive Director of the  
6 New Jersey Economic Development Authority, and in consultation  
7 with the director, pursuant to subsection a. of this section and pursuant  
8 to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not exceed a  
9 cumulative total of \$25,000,000 in any calendar year to apply against  
10 the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)  
11 and the tax imposed pursuant to the "New Jersey Gross Income Tax  
12 Act," N.J.S.54A:1-1 et seq. If the cumulative amount of credits  
13 allowed to taxpayers in a calendar year exceeds the amount of credits  
14 available in that year, then taxpayers who have first applied for and  
15 have not been allowed a credit amount for that reason shall be allowed,  
16 in the order in which they have submitted an application, the amount  
17 of the tax credit on the first day of the next succeeding calendar year in  
18 which tax credits under this section and section 4 of P.L.2013, c.14  
19 (C.54A:4-13) are not in excess of the amount of credits available.  
20 (cf: P.L.2017, c.40, s.2)

21

22 3. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to read as  
23 follows:

24 4. a. (1) A taxpayer, upon approval of the taxpayer's application  
25 therefor by the New Jersey Economic Development Authority, and in  
26 consultation with the director, shall be allowed a credit against the tax  
27 otherwise due for the taxable year under the "New Jersey Gross  
28 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to [10]  
29 20 percent of the qualified investment made by the taxpayer in a New  
30 Jersey emerging technology business, or in a New Jersey emerging  
31 technology business holding company that makes a verified transfer of  
32 funds to a New Jersey emerging technology business [, up to a  
33 maximum allowed credit of] ; provided, however, a taxpayer may be  
34 allowed a tax credit in an amount equal to 25 percent of the qualified  
35 investment if the taxpayer satisfies one of the requirements set forth in  
36 paragraph (2) of this subsection. The value of tax credits allowed to a  
37 taxpayer pursuant to this section shall not exceed \$500,000 for the  
38 taxable year for each qualified investment made by the taxpayer.

39 (2) Subject to the limits established in paragraph (1) of this  
40 subsection, the New Jersey Economic Development Authority, in  
41 consultation with the director, shall increase the amount of a tax credit  
42 allowed pursuant to this section by five percent if the taxpayer makes a  
43 qualified investment in a New Jersey emerging technology business, or  
44 in a New Jersey emerging technology business holding company that  
45 makes a verified transfer of funds to a New Jersey emerging  
46 technology business, if the New Jersey emerging technology business  
47 is:

1       (a) located in a qualified opportunity zone pursuant to 26 U.S.C.  
2 s.1400Z-1, or a low-income community as defined in 26 U.S.C. s.45D;  
3 or

4       (b) certified by the State as a minority business or a women's  
5 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.).

6       b. The amount of the credit allowed pursuant to this section shall  
7 be applied against the tax otherwise due under the "New Jersey Gross  
8 Income Tax Act," N.J.S.54A:1-1 et seq., after all other credits and  
9 payments. If the credit exceeds the amount of tax liability otherwise  
10 due, that amount of excess shall be an overpayment for the purposes of  
11 N.J.S.54A:9-7, provided, however, that subsection (f) of N.J.S.54A:9-  
12 7 shall not apply.

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

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

40       d. The Executive Director of the New Jersey Economic  
41 Development Authority, in consultation with the director, shall adopt,  
42 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
43 (C.52:14B-1 et seq.), rules and regulations that are necessary to  
44 implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28  
45 through C.54:10A-5.30) and this section, including, but not limited to:  
46 examples of and the determination of qualified investments of which  
47 applicants shall provide documentation with their tax credit  
48 application; the promulgation of procedures and forms necessary to



1 apply for a credit; and provisions for credit applicants to be charged an  
2 initial application fee and ongoing service fees to cover the  
3 administrative costs related to the credit.

4 The amount of credits approved by the Executive Director of the  
5 New Jersey Economic Development Authority and the Director of the  
6 Division of Taxation in the Department of the Treasury, pursuant to  
7 subsection a. of this section and pursuant to section 3 of P.L.1997,  
8 c.349 (C.54:10A-5.30), shall not exceed a cumulative total of  
9 \$25,000,000 in any calendar year to apply against the tax imposed  
10 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and the tax  
11 imposed pursuant to the "New Jersey Gross Income Tax Act,"  
12 N.J.S.54A:1-1 et seq. If the cumulative amount of credits allowed to  
13 taxpayers in a calendar year exceeds the amount of credits available in  
14 that year, then taxpayers who have first applied for and have not been  
15 allowed a credit amount for that reason shall be allowed, in the order  
16 in which they have submitted an application, the amount of the tax  
17 credit on the first day of the next succeeding calendar year in which  
18 tax credits under this section and section 3 of P.L.1997, c.349  
19 (C.54:10A-5.30) are not in excess of the amount of credits available.

20 e. As used in this section:

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

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

29 "Biotechnology" means the continually expanding body of  
30 fundamental knowledge about the functioning of biological systems  
31 from the macro level to the molecular and sub-atomic levels, as well as  
32 novel products, services, technologies, and sub-technologies  
33 developed as a result of insights gained from research advances which  
34 add to that body of fundamental knowledge.

35 "Carbon footprint reduction technology" means a technology using  
36 equipment for the commercial, institutional, and industrial sectors that:  
37 increases energy efficiency; develops and delivers renewable or non-  
38 carbon-emitting energy technologies; develops innovative carbon  
39 emissions abatement with significant carbon emissions reduction  
40 potential; or promotes measurable electricity end-use energy  
41 efficiency.

42 "Control" with respect to a corporation, means ownership, directly  
43 or indirectly, of stock possessing 80 percent or more of the total  
44 combined voting power of all classes of the stock of the corporation  
45 entitled to vote; and "control," with respect to a trust, means  
46 ownership, directly or indirectly, of 80 percent or more of the  
47 beneficial interest in the principal or income of the trust. The  
48 ownership of stock in a corporation, of a capital or profits interest in a

1 partnership or association or of a beneficial interest in a trust shall be  
2 determined in accordance with the rules for constructive ownership of  
3 stock provided in subsection (c) of section 267 of the federal Internal  
4 Revenue Code of 1986 (26 U.S.C. s.267), other than paragraph (3) of  
5 subsection (c) of that section.

6 "Controlled group" means one or more chains of corporations  
7 connected through stock ownership with a common parent corporation  
8 if stock possessing at least 80 percent of the voting power of all classes  
9 of stock of each of the corporations is owned directly or indirectly by  
10 one or more of the corporations and the common parent owns directly  
11 stock possessing at least 80 percent of the voting power of all classes  
12 of stock of at least one of the other corporations.

13 "Director" means the Director of the Division of Taxation in the  
14 Department of the Treasury.

15 "Electronic device technology" means a technology involving  
16 microelectronics, semiconductors, electronic equipment and  
17 instrumentation, radio frequency, microwave and millimeter  
18 electronics, and optical and optic-electrical devices, or data and digital  
19 communications and imaging devices.

20 "Information technology" means software publishing, motion  
21 picture and video production, television production and post-  
22 production services, telecommunications, data processing, hosting and  
23 related services, custom computer programming services, computer  
24 system design, computer facilities management services, other  
25 computer related services, and computer training.

26 "Life sciences" means the production of medical equipment,  
27 ophthalmic goods, medical or dental instruments, diagnostic  
28 substances, biopharmaceutical products, or physical and biological  
29 research.

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

34 "Mobile communications technology" means a technology  
35 involving the functionality and reliability of the transmission of voice  
36 and multimedia data using a communication infrastructure via a  
37 computer or a mobile device, that shall include, but not be limited to,  
38 smartphones, electronic books and tablets, digital audio players, motor  
39 vehicle electronics, home entertainment systems, and other wireless  
40 appliances, without having connected to any physical or fixed link.

41 "New Jersey emerging technology business" means a company  
42 with fewer than 225 employees, of whom at least 75 percent are filling  
43 a position in New Jersey, that is doing business, employing or owning  
44 capital or property, or maintaining an office in this State and: has  
45 qualified research expenses paid or incurred for research conducted in  
46 this State; conducts pilot scale manufacturing in this State; or conducts  
47 technology commercialization in this State in the fields of advanced  
48 computing, advanced materials, biotechnology, carbon footprint

1 reduction technology, electronic device technology, information  
2 technology, life sciences, medical device technology, mobile  
3 communications technology, or renewable energy technology.

4 "New Jersey emerging technology business holding company"  
5 means any corporation, association, firm, partnership, trust or other  
6 form of business organization, but not a natural person, which directly  
7 or indirectly, owns, has the power or right to control, or has the power  
8 to vote, a controlling share of the outstanding voting securities of a  
9 corporation or other form of a New Jersey emerging technology  
10 business.

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

15 "Pilot scale manufacturing" means design, construction, and  
16 testing of preproduction prototypes and models in the fields of  
17 advanced computing, advanced materials, biotechnology, carbon  
18 footprint reduction technology electronic device technology,  
19 information technology, life sciences, medical device technology,  
20 mobile communications technology, or renewable energy technology,  
21 other than for commercial sale, excluding sales of prototypes or sales  
22 for market testing if the total gross receipts, as calculated in the  
23 manner provided in section 6 of P.L.1945, c.162 (C.54:10A-6), from  
24 the sales of the product, service, or process do not exceed \$1,000,000.

25 "Qualified investment" means the non-refundable transfer of cash  
26 to a New Jersey emerging technology business or to a New Jersey  
27 emerging technology business holding company by a taxpayer that is  
28 not a related person of the New Jersey emerging technology business  
29 or the New Jersey emerging technology business holding company, the  
30 transfer of which is in connection with either: a transaction between or  
31 among the taxpayer and the New Jersey emerging technology business  
32 or the New Jersey emerging technology holding company or both in  
33 exchange for stock, interests in partnerships or joint ventures, licenses  
34 (exclusive or non-exclusive), rights to use technology, marketing  
35 rights, warrants, options, or any items similar to those included herein,  
36 including, but not limited to, options or rights to acquire any of the  
37 items included herein; or a purchase, production, or research  
38 agreement between or among the taxpayer and the New Jersey  
39 emerging technology business or the New Jersey emerging technology  
40 holding company or both.

41 "Qualified research expenses" means qualified research expenses,  
42 as defined in section 41 of the federal Internal Revenue Code of 1986  
43 (26 U.S.C. s.41), as in effect on June 30, 1992, in the fields of  
44 advanced computing, advanced materials, biotechnology, electronic  
45 device technology, information technology, life sciences, medical  
46 device technology, mobile communications technology, or renewable  
47 energy technology.

48 "Related person" means:

1 a corporation, partnership, association or trust controlled by the  
2 taxpayer;

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

5 a corporation, partnership, association or trust controlled by an  
6 individual, corporation, partnership, association or trust that is in the  
7 control of the taxpayer; or

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

9 "Renewable energy technology" means a technology involving the  
10 generation of electricity from solar energy; wind energy; wave or tidal  
11 action; geothermal energy; the combustion of gas from the anaerobic  
12 digestion of food waste and sewage sludge at a biomass generating  
13 facility; the combustion of methane gas captured from a landfill; and a  
14 fuel cell powered by methanol, ethanol, landfill gas, digester gas,  
15 biomass gas, or other renewable fuel but not powered by a fossil fuel.

16 "Verified transfer of funds" means a non-refundable transfer of  
17 funds equal to 100 percent of the taxpayer's qualified investment in the  
18 New Jersey emerging technology business holding company to a New  
19 Jersey emerging technology business by the New Jersey emerging  
20 technology business holding company that is accompanied by  
21 documentation, as required by the New Jersey Economic Development  
22 Authority, which provides proof of a cash transaction originating with  
23 a taxpayer and concluding with a New Jersey emerging technology  
24 business, provided that the transactions from origin to destination  
25 occur within the same taxable year.

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

27

28 4. This act shall take effect immediately and shall apply to  
29 qualified investments made during privilege periods and taxable  
30 years beginning on and after January 1, 2020.

31

32

33

#### STATEMENT

34

35 This bill increases the amount of the corporation business and  
36 gross income tax credits that are available for qualified investments  
37 under the "New Jersey Angel Investor Tax Credit Act," from 10 to  
38 20 percent of the qualified investment made by a taxpayer in a New  
39 Jersey emerging technology business or in a New jersey emerging  
40 technology business holding company that makes a verified transfer  
41 of funds to a New Jersey emerging technology business. The bill,  
42 however, also provides that a taxpayer may be allowed a tax credit  
43 in an amount equal to 25 percent of the qualified investment if the  
44 emerging technology business is located in a qualified opportunity  
45 zone or low-income community, as those terms are defined in  
46 federal law, or is certified by the State as a minority or women's  
47 business.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 5604

# STATE OF NEW JERSEY

DATED: JUNE 17, 2019

The Assembly Budget Committee reports favorably Assembly Bill No. 5604.

This bill increases the amount of the corporation business and gross income tax credits that are available for qualified investments under the “New Jersey Angel Investor Tax Credit Act,” from 10 to 20 percent of the qualified investment made by a taxpayer in a New Jersey emerging technology business or in a New Jersey emerging technology business holding company that makes a verified transfer of funds to a New Jersey emerging technology business. The bill also provides that a taxpayer may be allowed a tax credit in an amount equal to 25 percent of the qualified investment if the emerging technology business is located in a qualified opportunity zone or low-income community, as defined by federal law, or is certified by the State as a minority or women’s business.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot project the magnitude of the bill’s fiscal impact on State revenues. Pursuant to current law, the Angel Investor Tax Credit Program has an annual cap of \$25 million. As the program has yet to utilize all of the available cap space, the OLS anticipates that the enhanced credit amount under the bill to absorb more of the available cap space, if not all of it. However, the OLS is unable to determine exactly how much cap space the bill would absorb.

Based on average cap utilization of about \$10 million annually in calendar years 2016 through 2018, the OLS estimates this bill’s impact to be an annual State revenue loss of up to \$15 million.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 5604**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: JUNE 24, 2019

**SUMMARY**

**Synopsis:** Increases tax credit provided for qualified investments under “New Jersey Angel Investor Tax Credit Act.”

**Type of Impact:** Annual State revenue loss.

**Agencies Affected:** Department of the Treasury; New Jersey Economic Development Authority.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2021 and Thereafter</u></b>
<b>State Revenue Loss</b>	Up to \$15 million

- The Office of Legislative Services (OLS) projects that the State may incur an annual revenue loss of up to \$15 million as a result of this bill. Pursuant to current law, the Angel Investor Tax Credit Program has an annual cap of \$25 million. As the program has yet to utilize all of the available cap space in any year, the OLS anticipates that the enhanced credit amount under the bill will absorb more of the available cap space, if not all of it. Although the OLS is unable to determine exactly how much additional cap space will be utilized as a result of this bill, based on average cap utilization of about \$10 million annually over the last three years, the OLS estimates this bill’s impact to be up to \$15 million per year.
- To the extent that additional investments in emerging technology businesses resulting from this bill spur greater economic activity, the State and local governments could benefit from increased tax revenues. However, the magnitude of these revenues cannot be determined.

**BILL DESCRIPTION**

This bill increases the amount of the corporation business and gross income tax credits that are available for qualified investments under the New Jersey Angel Investor Tax Credit Act from 10 to 20 percent of the qualified investment made by a taxpayer in a New Jersey emerging technology business or in a New Jersey emerging technology business holding company that makes a verified transfer of funds to a New Jersey emerging technology business. The bill also

provides that a taxpayer may be allowed a tax credit in an amount equal to 25 percent of the qualified investment if the emerging technology business is located in a qualified opportunity zone or low-income community, as defined by federal law, or is certified by the State as a minority or women's business.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS projects that the State may incur an annual revenue loss of up to \$15 million as a result of this bill. Pursuant to current law, the Angel Investor Tax Credit Program has an annual cap of \$25 million. As the program has yet to utilize all of the available cap space in any year, the OLS anticipates that the enhanced credit amount under the bill will absorb more of the available cap space, if not all of it.

A taxpayer, filing in New Jersey, who invests in a qualifying New Jersey emerging technology business with fewer than 225 employees, at least 75 percent of whom work in New Jersey, is eligible for a tax credit against the taxpayer's gross income tax liability or corporation business tax liability. The tax credit is equal to 10 percent of the qualified investment made in an emerging technology business, up to a maximum allowed credit of \$500,000 for each qualified investment, with the entire tax credit program being capped at \$25 million annually. According to OLS Discussion Points for the New Jersey Economic Development Authority, approximately \$9.1 million in tax credits were awarded in calendar year (CY) 2016, \$11.2 million in CY 2017, and \$10.7 million in CY 2018 under the program.

The bill increases the tax credit amount to 20 percent of the qualified investment made in a New Jersey emerging technology business, and may be increased to 25 percent of the qualified investment if the New Jersey emerging technology business is located in a qualified opportunity zone or low-income community or is certified as a minority or women's business. The bill does not modify the annual program cap (\$25 million) or the maximum allowable credit (\$500,000). Based on program activity in CY 2018, if the tax credits awarded in CY 2018 were calculated based on 20 percent of a qualified investment, as opposed to 10 percent of the qualified investment, the total amount awarded in CY 2018 could have been roughly \$21.4 million.

Some of the qualified investments made during CY 2018 were substantial enough to reach the \$500,000 threshold under the 10 percent calculation. Thus, those investments would not benefit from this bill and would have less of an impact on State revenues. The OLS notes that the enhanced credit could incentivize more activity under the program, which could in turn utilize the remaining available cap space. However, due to the annual program cap and the tax credit cap, the aggregate impact of the program on State revenues will never exceed \$25 million annually. Based on average cap utilization of about \$10 million annually over the last three years, the OLS estimates this bill's impact to be up to \$15 million per year.

To the extent that additional investments in emerging technology businesses resulting from this bill spur greater economic activity, the State and local governments could benefit from increased tax revenues. However, the magnitude of these revenues cannot be determined.

*Section: Revenue, Finance and Appropriations*

*Analyst: Jordan DiGiovanni  
Revenue Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



# ASSEMBLY, No. 3677

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 13, 2018

**Sponsored by:**

**Assemblyman CHRISTOPHER P. DEPHILLIPS**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Assemblywoman BETTYLOU DECROCE**

**District 26 (Essex, Morris and Passaic)**

**Assemblyman ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Co-Sponsored by:**

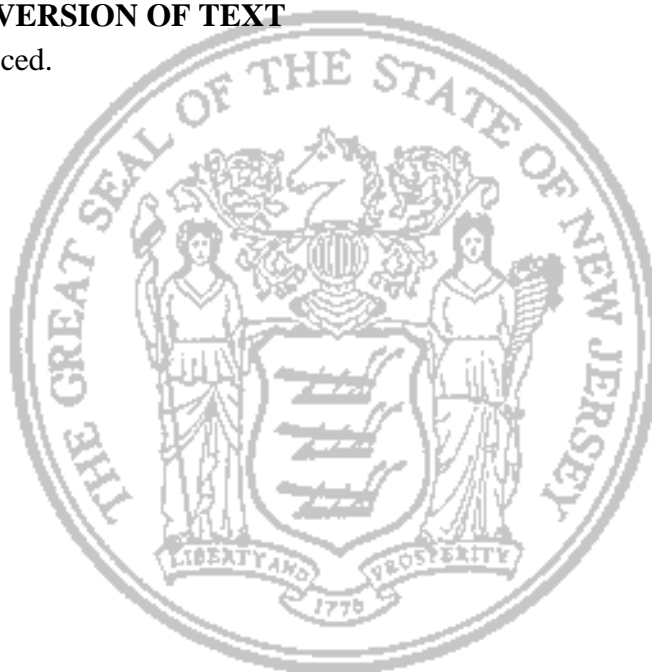
**Assemblymen Rooney, Thomson, Assemblywoman DiMaso, Assemblymen  
Peterson and Benson**

**SYNOPSIS**

Increases tax credit provided for qualified investments under “New Jersey  
Angel Investor Tax Credit Act.”

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/16/2018)**

1 AN ACT increasing the tax credit provided for qualified investments  
2 under the “New Jersey Angel Investor Tax Credit Act,” and  
3 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]** 25 percent of the  
15 qualified investment made by the taxpayer in a New Jersey  
16 emerging technology business, or in a New Jersey emerging  
17 technology business holding company that makes a verified transfer  
18 of funds to a New Jersey emerging technology business, up to a  
19 maximum allowed credit of \$500,000 for the tax year for each  
20 qualified investment made by the taxpayer.

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

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

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

37 d. A taxpayer may not carry over any amount of credit allowed  
38 under subsection a. of this section to a tax year during which a  
39 corporate acquisition with respect to which the taxpayer was a  
40 target corporation occurred or during which the taxpayer was a  
41 party to a merger or a consolidation, or to any subsequent tax year,  
42 if the credit was allowed for a tax year prior to the year of  
43 acquisition, merger or consolidation, except that if in the case of a  
44 corporate merger or corporate consolidation the taxpayer can  
45 demonstrate, through the submission of a copy of the plan of merger

**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 or consolidation and such other evidence as may be required by the  
2 director, the identity of the constituent corporation which was the  
3 acquiring person, a credit allowed to the acquiring person may be  
4 carried over by the taxpayer. As used in this subsection, "acquiring  
5 person" means the constituent corporation the stockholders of  
6 which own the largest proportion of the total voting power in the  
7 surviving or consolidated corporation after the merger or  
8 consolidation.

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

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

38 (cf: P.L.2017, c.40, s.2)

39

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

42 4. a. A taxpayer, upon approval of the taxpayer's application  
43 therefor by the New Jersey Economic Development Authority, and  
44 in consultation with the director, shall be allowed a credit against  
45 the tax otherwise due for the taxable year under the "New Jersey  
46 Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal  
47 to **【10】** 25 percent of the qualified investment made by the taxpayer  
48 in a New Jersey emerging technology business, or in a New Jersey

1 emerging technology business holding company that makes a  
2 verified transfer of funds to a New Jersey emerging technology  
3 business, up to a maximum allowed credit of \$500,000 for the  
4 taxable year for each qualified investment made by the taxpayer.

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

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

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

40 d. The Executive Director of the New Jersey Economic  
41 Development Authority, in consultation with the director, shall  
42 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
43 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary  
44 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-  
45 5.28 through C.54:10A-5.30) and this section, including, but not  
46 limited to: examples of and the determination of qualified  
47 investments of which applicants shall provide documentation with  
48 their tax credit application; the promulgation of procedures and

1 forms necessary to apply for a credit; and provisions for credit  
2 applicants to be charged an initial application fee and ongoing  
3 service fees to cover the administrative costs related to the credit.

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

21 e. As used in this section:

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

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

32 "Biotechnology" means the continually expanding body of  
33 fundamental knowledge about the functioning of biological systems  
34 from the macro level to the molecular and sub-atomic levels, as  
35 well as novel products, services, technologies, and sub-technologies  
36 developed as a result of insights gained from research advances  
37 which add to that body of fundamental knowledge.

38 "Carbon footprint reduction technology" means a technology  
39 using equipment for the commercial, institutional, and industrial  
40 sectors that: increases energy efficiency; develops and delivers  
41 renewable or non-carbon-emitting energy technologies; develops  
42 innovative carbon emissions abatement with significant carbon  
43 emissions reduction potential; or promotes measurable electricity  
44 end-use energy efficiency.

45 "Control" with respect to a corporation, means ownership,  
46 directly or indirectly, of stock possessing 80 percent or more of the  
47 total combined voting power of all classes of the stock of the  
48 corporation entitled to vote; and "control," with respect to a trust,

1 means ownership, directly or indirectly, of 80 percent or more of  
2 the beneficial interest in the principal or income of the trust. The  
3 ownership of stock in a corporation, of a capital or profits interest in  
4 a partnership or association or of a beneficial interest in a trust shall  
5 be determined in accordance with the rules for constructive  
6 ownership of stock provided in subsection (c) of section 267 of the  
7 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than  
8 paragraph (3) of subsection (c) of that section.

9 "Controlled group" means one or more chains of corporations  
10 connected through stock ownership with a common parent  
11 corporation if stock possessing at least 80 percent of the voting  
12 power of all classes of stock of each of the corporations is owned  
13 directly or indirectly by one or more of the corporations and the  
14 common parent owns directly stock possessing at least 80 percent of  
15 the voting power of all classes of stock of at least one of the other  
16 corporations.

17 "Director" means the Director of the Division of Taxation in the  
18 Department of the Treasury.

19 "Electronic device technology" means a technology involving  
20 microelectronics, semiconductors, electronic equipment and  
21 instrumentation, radio frequency, microwave and millimeter  
22 electronics, and optical and optic-electrical devices, or data and  
23 digital communications and imaging devices.

24 "Information technology" means software publishing, motion  
25 picture and video production, television production and post-  
26 production services, telecommunications, data processing, hosting  
27 and related services, custom computer programming services,  
28 computer system design, computer facilities management services,  
29 other computer related services, and computer training.

30 "Life sciences" means the production of medical equipment,  
31 ophthalmic goods, medical or dental instruments, diagnostic  
32 substances, biopharmaceutical products, or physical and biological  
33 research.

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

38 "Mobile communications technology" means a technology  
39 involving the functionality and reliability of the transmission of  
40 voice and multimedia data using a communication infrastructure via  
41 a computer or a mobile device, that shall include, but not be limited  
42 to, smartphones, electronic books and tablets, digital audio players,  
43 motor vehicle electronics, home entertainment systems, and other  
44 wireless appliances, without having connected to any physical or  
45 fixed link.

46 "New Jersey emerging technology business" means a company  
47 with fewer than 225 employees, of whom at least 75 percent are  
48 filling a position in New Jersey, that is doing business, employing

1 or owning capital or property, or maintaining an office in this State  
2 and: has qualified research expenses paid or incurred for research  
3 conducted in this State; conducts pilot scale manufacturing in this  
4 State; or conducts technology commercialization in this State in the  
5 fields of advanced computing, advanced materials, biotechnology,  
6 carbon footprint reduction technology, electronic device  
7 technology, information technology, life sciences, medical device  
8 technology, mobile communications technology, or renewable  
9 energy technology.

10 "New Jersey emerging technology business holding company"  
11 means any corporation, association, firm, partnership, trust or other  
12 form of business organization, but not a natural person, which  
13 directly or indirectly, owns, has the power or right to control, or has  
14 the power to vote, a controlling share of the outstanding voting  
15 securities of a corporation or other form of a New Jersey emerging  
16 technology business.

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

21 "Pilot scale manufacturing" means design, construction, and  
22 testing of preproduction prototypes and models in the fields of  
23 advanced computing, advanced materials, biotechnology, carbon  
24 footprint reduction technology electronic device technology,  
25 information technology, life sciences, medical device technology,  
26 mobile communications technology, or renewable energy  
27 technology, other than for commercial sale, excluding sales of  
28 prototypes or sales for market testing if the total gross receipts, as  
29 calculated in the manner provided in section 6 of P.L.1945, c.162  
30 (C.54:10A-6), from the sales of the product, service, or process do  
31 not exceed \$1,000,000.

32 "Qualified investment" means the non-refundable transfer of  
33 cash to a New Jersey emerging technology business or to a New  
34 Jersey emerging technology business holding company by a  
35 taxpayer that is not a related person of the New Jersey emerging  
36 technology business or the New Jersey emerging technology  
37 business holding company, the transfer of which is in connection  
38 with either: a transaction between or among the taxpayer and the  
39 New Jersey emerging technology business or the New Jersey  
40 emerging technology holding company or both in exchange for  
41 stock, interests in partnerships or joint ventures, licenses (exclusive  
42 or non-exclusive), rights to use technology, marketing rights,  
43 warrants, options, or any items similar to those included herein,  
44 including, but not limited to, options or rights to acquire any of the  
45 items included herein; or a purchase, production, or research  
46 agreement between or among the taxpayer and the New Jersey  
47 emerging technology business or the New Jersey emerging  
48 technology holding company or both.

1 "Qualified research expenses" means qualified research  
2 expenses, as defined in section 41 of the federal Internal Revenue  
3 Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992, in the  
4 fields of advanced computing, advanced materials, biotechnology,  
5 electronic device technology, information technology, life sciences,  
6 medical device technology, mobile communications technology, or  
7 renewable energy technology.

8 "Related person" means:

9 a corporation, partnership, association or trust controlled by the  
10 taxpayer;

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

13 a corporation, partnership, association or trust controlled by an  
14 individual, corporation, partnership, association or trust that is in  
15 the control of the taxpayer; or

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

17 "Renewable energy technology" means a technology involving  
18 the generation of electricity from solar energy; wind energy; wave  
19 or tidal action; geothermal energy; the combustion of gas from the  
20 anaerobic digestion of food waste and sewage sludge at a biomass  
21 generating facility; the combustion of methane gas captured from a  
22 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,  
23 digester gas, biomass gas, or other renewable fuel but not powered  
24 by a fossil fuel.

25 "Verified transfer of funds" means a non-refundable transfer of  
26 funds equal to 100 percent of the taxpayer's qualified investment in  
27 the New Jersey emerging technology business holding company to a  
28 New Jersey emerging technology business by the New Jersey  
29 emerging technology business holding company that is  
30 accompanied by documentation, as required by the New Jersey  
31 Economic Development Authority, which provides proof of a cash  
32 transaction originating with a taxpayer and concluding with a New  
33 Jersey emerging technology business, provided that the transactions  
34 from origin to destination occur within the same taxable year.

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

36  
37 3. This act shall take effect immediately and apply retroactively  
38 to qualified investments made on or after January 1, 2018.

#### 41 STATEMENT

42  
43 This bill increases the tax credit provided for qualified  
44 investments under the "New Jersey Angel Investor Tax Credit Act,"  
45 from 10 percent of the qualified investment to 25 percent of the  
46 qualified investment.

47 The Angel Investor Tax Credit Program provides a tax credit in  
48 an amount equal to 10 percent of the angel investors' qualified



1 investment in New Jersey emerging technology companies with  
2 fewer than 225 employees, where at least 75 percent of those  
3 positions are located in the State. The bill increases the tax credit  
4 amount to 25 percent of the angel investors' qualified investment.

5 Under the "New Jersey Angel Investor Tax Credit Act,"  
6 qualified investments include non-refundable transfers of cash made  
7 directly to the New Jersey emerging technology business in  
8 connection with either stock, interests in partnerships or joint  
9 ventures, licenses (exclusive or non-exclusive), rights to use  
10 technology, marketing rights, warrants, options, or any similar  
11 items, including but not limited to options or rights to acquire any  
12 of the listed or a purchase, production, or research agreement.

13 Tax credits awarded pursuant to the Angel Investor Tax Credit  
14 Program are considered to be refundable tax credits, and the  
15 program is capped at \$25 million annually.

16 The bill is retroactive to January 1, 2018.

# SENATE, No. 2298

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 13, 2018

**Sponsored by:**

**Senator KRISTIN M. CORRADO**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Co-Sponsored by:**

**Senators A.R.Bucco and Pennacchio**

**SYNOPSIS**

Increases tax credit provided for qualified investments under “New Jersey Angel Investor Tax Credit Act.”

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/18/2019)**

1 AN ACT increasing the tax credit provided for qualified investments  
2 under the “New Jersey Angel Investor Tax Credit Act,” and  
3 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]** 25 percent of the  
15 qualified investment made by the taxpayer in a New Jersey  
16 emerging technology business, or in a New Jersey emerging  
17 technology business holding company that makes a verified transfer  
18 of funds to a New Jersey emerging technology business, up to a  
19 maximum allowed credit of \$500,000 for the tax year for each  
20 qualified investment made by the taxpayer.

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

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

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

37 d. A taxpayer may not carry over any amount of credit allowed  
38 under subsection a. of this section to a tax year during which a  
39 corporate acquisition with respect to which the taxpayer was a  
40 target corporation occurred or during which the taxpayer was a  
41 party to a merger or a consolidation, or to any subsequent tax year,  
42 if the credit was allowed for a tax year prior to the year of  
43 acquisition, merger or consolidation, except that if in the case of a  
44 corporate merger or corporate consolidation the taxpayer can  
45 demonstrate, through the submission of a copy of the plan of merger

**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 or consolidation and such other evidence as may be required by the  
2 director, the identity of the constituent corporation which was the  
3 acquiring person, a credit allowed to the acquiring person may be  
4 carried over by the taxpayer. As used in this subsection, "acquiring  
5 person" means the constituent corporation the stockholders of  
6 which own the largest proportion of the total voting power in the  
7 surviving or consolidated corporation after the merger or  
8 consolidation.

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

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

38 (cf: P.L.2017, c.40, s.2)

39

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

42 4. a. A taxpayer, upon approval of the taxpayer's application  
43 therefor by the New Jersey Economic Development Authority, and  
44 in consultation with the director, shall be allowed a credit against  
45 the tax otherwise due for the taxable year under the "New Jersey  
46 Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal  
47 to **【10】** 25 percent of the qualified investment made by the taxpayer  
48 in a New Jersey emerging technology business, or in a New Jersey

1 emerging technology business holding company that makes a  
2 verified transfer of funds to a New Jersey emerging technology  
3 business, up to a maximum allowed credit of \$500,000 for the  
4 taxable year for each qualified investment made by the taxpayer.

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

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

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

40 d. The Executive Director of the New Jersey Economic  
41 Development Authority, in consultation with the director, shall  
42 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
43 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary  
44 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-  
45 5.28 through C.54:10A-5.30) and this section, including, but not  
46 limited to: examples of and the determination of qualified  
47 investments of which applicants shall provide documentation with  
48 their tax credit application; the promulgation of procedures and

1 forms necessary to apply for a credit; and provisions for credit  
2 applicants to be charged an initial application fee and ongoing  
3 service fees to cover the administrative costs related to the credit.

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

21 e. As used in this section:

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

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

32 "Biotechnology" means the continually expanding body of  
33 fundamental knowledge about the functioning of biological systems  
34 from the macro level to the molecular and sub-atomic levels, as  
35 well as novel products, services, technologies, and sub-technologies  
36 developed as a result of insights gained from research advances  
37 which add to that body of fundamental knowledge.

38 "Carbon footprint reduction technology" means a technology  
39 using equipment for the commercial, institutional, and industrial  
40 sectors that: increases energy efficiency; develops and delivers  
41 renewable or non-carbon-emitting energy technologies; develops  
42 innovative carbon emissions abatement with significant carbon  
43 emissions reduction potential; or promotes measurable electricity  
44 end-use energy efficiency.

45 "Control" with respect to a corporation, means ownership,  
46 directly or indirectly, of stock possessing 80 percent or more of the  
47 total combined voting power of all classes of the stock of the  
48 corporation entitled to vote; and "control," with respect to a trust,

1 means ownership, directly or indirectly, of 80 percent or more of  
2 the beneficial interest in the principal or income of the trust. The  
3 ownership of stock in a corporation, of a capital or profits interest in  
4 a partnership or association or of a beneficial interest in a trust shall  
5 be determined in accordance with the rules for constructive  
6 ownership of stock provided in subsection (c) of section 267 of the  
7 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than  
8 paragraph (3) of subsection (c) of that section.

9 "Controlled group" means one or more chains of corporations  
10 connected through stock ownership with a common parent  
11 corporation if stock possessing at least 80 percent of the voting  
12 power of all classes of stock of each of the corporations is owned  
13 directly or indirectly by one or more of the corporations and the  
14 common parent owns directly stock possessing at least 80 percent of  
15 the voting power of all classes of stock of at least one of the other  
16 corporations.

17 "Director" means the Director of the Division of Taxation in the  
18 Department of the Treasury.

19 "Electronic device technology" means a technology involving  
20 microelectronics, semiconductors, electronic equipment and  
21 instrumentation, radio frequency, microwave and millimeter  
22 electronics, and optical and optic-electrical devices, or data and  
23 digital communications and imaging devices.

24 "Information technology" means software publishing, motion  
25 picture and video production, television production and post-  
26 production services, telecommunications, data processing, hosting  
27 and related services, custom computer programming services,  
28 computer system design, computer facilities management services,  
29 other computer related services, and computer training.

30 "Life sciences" means the production of medical equipment,  
31 ophthalmic goods, medical or dental instruments, diagnostic  
32 substances, biopharmaceutical products, or physical and biological  
33 research.

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

38 "Mobile communications technology" means a technology  
39 involving the functionality and reliability of the transmission of  
40 voice and multimedia data using a communication infrastructure via  
41 a computer or a mobile device, that shall include, but not be limited  
42 to, smartphones, electronic books and tablets, digital audio players,  
43 motor vehicle electronics, home entertainment systems, and other  
44 wireless appliances, without having connected to any physical or  
45 fixed link.

46 "New Jersey emerging technology business" means a company  
47 with fewer than 225 employees, of whom at least 75 percent are  
48 filling a position in New Jersey, that is doing business, employing

1 or owning capital or property, or maintaining an office in this State  
2 and: has qualified research expenses paid or incurred for research  
3 conducted in this State; conducts pilot scale manufacturing in this  
4 State; or conducts technology commercialization in this State in the  
5 fields of advanced computing, advanced materials, biotechnology,  
6 carbon footprint reduction technology, electronic device  
7 technology, information technology, life sciences, medical device  
8 technology, mobile communications technology, or renewable  
9 energy technology.

10 "New Jersey emerging technology business holding company"  
11 means any corporation, association, firm, partnership, trust or other  
12 form of business organization, but not a natural person, which  
13 directly or indirectly, owns, has the power or right to control, or has  
14 the power to vote, a controlling share of the outstanding voting  
15 securities of a corporation or other form of a New Jersey emerging  
16 technology business.

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

21 "Pilot scale manufacturing" means design, construction, and  
22 testing of preproduction prototypes and models in the fields of  
23 advanced computing, advanced materials, biotechnology, carbon  
24 footprint reduction technology electronic device technology,  
25 information technology, life sciences, medical device technology,  
26 mobile communications technology, or renewable energy  
27 technology, other than for commercial sale, excluding sales of  
28 prototypes or sales for market testing if the total gross receipts, as  
29 calculated in the manner provided in section 6 of P.L.1945, c.162  
30 (C.54:10A-6), from the sales of the product, service, or process do  
31 not exceed \$1,000,000.

32 "Qualified investment" means the non-refundable transfer of  
33 cash to a New Jersey emerging technology business or to a New  
34 Jersey emerging technology business holding company by a  
35 taxpayer that is not a related person of the New Jersey emerging  
36 technology business or the New Jersey emerging technology  
37 business holding company, the transfer of which is in connection  
38 with either: a transaction between or among the taxpayer and the  
39 New Jersey emerging technology business or the New Jersey  
40 emerging technology holding company or both in exchange for  
41 stock, interests in partnerships or joint ventures, licenses (exclusive  
42 or non-exclusive), rights to use technology, marketing rights,  
43 warrants, options, or any items similar to those included herein,  
44 including, but not limited to, options or rights to acquire any of the  
45 items included herein; or a purchase, production, or research  
46 agreement between or among the taxpayer and the New Jersey  
47 emerging technology business or the New Jersey emerging  
48 technology holding company or both.



1 "Qualified research expenses" means qualified research  
2 expenses, as defined in section 41 of the federal Internal Revenue  
3 Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992, in the  
4 fields of advanced computing, advanced materials, biotechnology,  
5 electronic device technology, information technology, life sciences,  
6 medical device technology, mobile communications technology, or  
7 renewable energy technology.

8 "Related person" means:

9 a corporation, partnership, association or trust controlled by the  
10 taxpayer;

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

13 a corporation, partnership, association or trust controlled by an  
14 individual, corporation, partnership, association or trust that is in  
15 the control of the taxpayer; or

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

17 "Renewable energy technology" means a technology involving  
18 the generation of electricity from solar energy; wind energy; wave  
19 or tidal action; geothermal energy; the combustion of gas from the  
20 anaerobic digestion of food waste and sewage sludge at a biomass  
21 generating facility; the combustion of methane gas captured from a  
22 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,  
23 digester gas, biomass gas, or other renewable fuel but not powered  
24 by a fossil fuel.

25 "Verified transfer of funds" means a non-refundable transfer of  
26 funds equal to 100 percent of the taxpayer's qualified investment in  
27 the New Jersey emerging technology business holding company to a  
28 New Jersey emerging technology business by the New Jersey  
29 emerging technology business holding company that is  
30 accompanied by documentation, as required by the New Jersey  
31 Economic Development Authority, which provides proof of a cash  
32 transaction originating with a taxpayer and concluding with a New  
33 Jersey emerging technology business, provided that the transactions  
34 from origin to destination occur within the same taxable year.

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

36

37 3. This act shall take effect immediately and apply  
38 retroactively to qualified investments made on or after January 1,  
39 2018.

40

41

42

#### STATEMENT

43

44 This bill increases the tax credit provided for qualified  
45 investments under the "New Jersey Angel Investor Tax Credit Act,"  
46 from 10 percent of the qualified investment to 25 percent of the  
47 qualified investment.

**S2298 CORRADO, SINGLETON**

1       The Angel Investor Tax Credit Program provides a tax credit in  
2 an amount equal to 10 percent of the angel investors' qualified  
3 investment in New Jersey emerging technology companies with  
4 fewer than 225 employees, where at least 75 percent of those  
5 positions are located in the State. The bill increases the tax credit  
6 amount to 25 percent of the angel investors' qualified investment.

7       Under the "New Jersey Angel Investor Tax Credit Act,"  
8 qualified investments include non-refundable transfers of cash made  
9 directly to the New Jersey emerging technology business in  
10 connection with either stock, interests in partnerships or joint  
11 ventures, licenses (exclusive or non-exclusive), rights to use  
12 technology, marketing rights, warrants, options, or any similar  
13 items, including but not limited to options or rights to acquire any  
14 of the listed or a purchase, production, or research agreement.

15       Tax credits awarded pursuant to the Angel Investor Tax Credit  
16 Program are considered to be refundable tax credits, and the  
17 program is capped at \$25 million annually.

18       The bill is retroactive to January 1, 2018.

# SENATE ECONOMIC GROWTH COMMITTEE

## STATEMENT TO

### SENATE, No. 2298

# STATE OF NEW JERSEY

DATED: JUNE 17, 2019

The Senate Economic Growth Committee reports favorably Senate Bill No. 2298.

As reported, this bill increases the tax credit provided for qualified investments under the “New Jersey Angel Investor Tax Credit Act” (act), from 10 percent of the qualified investment to 25 percent of the qualified investment.

Under the act, the Angel Investor Tax Credit Program (program) provides a tax credit in an amount equal to 10 percent of the angel investors’ qualified investment in New Jersey emerging technology companies with fewer than 225 employees, where at least 75 percent of those positions are located in the State. The bill increases the tax credit amount to 25 percent of the angel investors’ qualified investment.

Under the program, qualified investments include non-refundable transfers of cash made directly to the New Jersey emerging technology business in connection with either stock, interests in partnerships or joint ventures, licenses (exclusive or non-exclusive), rights to use technology, marketing rights, warrants, options, or any similar items, including but not limited to options or rights to acquire any of the listed or a purchase, production, or research agreement.

Tax credits awarded under the program are considered to be refundable tax credits, and the program is capped at \$25 million annually. The bill is retroactive to January 1, 2018.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2298**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 17, 2019

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2298, with committee amendments.

Senate Bill No. 2298, with committee amendments, increases the tax credit provided for qualified investments under the “New Jersey Angel Investor Tax Credit Act,” from 10 percent of the qualified investment to 20 percent of the qualified investment.

The Angel Investor Tax Credit Program provides a tax credit in an amount equal to 10 percent of the angel investors’ qualified investment in New Jersey emerging technology companies with fewer than 225 employees, where at least 75 percent of those positions are located in the State. The bill increases the tax credit amount to 20 percent of the angel investors’ qualified investment. Further, the bill allows the Economic Development Authority, in consultation with the Director of the Division of Taxation, to provide a taxpayer a credit in the amount of 25 percent of the qualified investment made, if the emerging technology business is: located in a qualified opportunity zone or low-income community as defined in federal law; or, certified by the State as a minority or women’s business.

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

Tax credits awarded pursuant to the Angel Investor Tax Credit Program are refundable, and the program is capped at \$25 million annually. The bill would take effect upon enactment and apply to qualified investments made during privilege periods and taxable years beginning on or after January 1, 2020.

#### COMMITTEE AMENDMENTS:

The amendments: add a Legislative Findings and Declarations section; raise the amount of the credits allowed against the corporation

business tax and NJ gross income taxes from 10 to 20 percent (instead of 25 percent) of the qualified investment made by the taxpayer; allow the EDA, in consultation with the director to provide a credit in the amount of 25 percent of the qualified investment if the emerging technology business is: (a) located in a qualified opportunity zone or low-income community as defined in federal law, or (b) certified by the State as a minority or women's business; the amendments also change reference to "tax year" to "privilege period" throughout section 2 of the bill, and provide that the bill would apply to qualified investments made during privilege periods and taxable years beginning on or after January 1, 2020 (instead of applying retroactively to qualified investments made on or after January 1, 2018).

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot project the magnitude of the bill's fiscal impact on State revenues. Pursuant to current law, the Angel Investor Tax Credit Program has an annual cap of \$25 million. As the program has yet to utilize all of the available cap space, the OLS anticipates that the enhanced credit amount under the bill to absorb more of the available cap space, if not all of it. However, the OLS is unable to determine exactly how much cap space the bill would absorb.

Based on average cap utilization of about \$10 million annually in calendar years 2016 through 2018, the OLS estimates this bill's impact to be an annual State revenue loss of up to \$15 million.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 2298 STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JUNE 24, 2019

### SUMMARY

- Synopsis:** Increases tax credit provided for qualified investments under “New Jersey Angel Investor Tax Credit Act.”
- Type of Impact:** Annual State revenue loss.
- Agencies Affected:** Department of the Treasury; New Jersey Economic Development Authority.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2021 and Thereafter</u></b>
<b>State Revenue Loss</b>	Up to \$15 million

- The Office of Legislative Services (OLS) projects that the State may incur an annual revenue loss of up to \$15 million as a result of this bill. Pursuant to current law, the Angel Investor Tax Credit Program has an annual cap of \$25 million. As the program has yet to utilize all of the available cap space in any year, the OLS anticipates that the enhanced credit amount under the bill will absorb more of the available cap space, if not all of it. Although the OLS is unable to determine exactly how much additional cap space will be utilized as a result of this bill, based on average cap utilization of about \$10 million annually over the last three years, the OLS estimates this bill’s impact to be up to \$15 million per year.
- To the extent that additional investments in emerging technology businesses resulting from this bill spur greater economic activity, the State and local governments could benefit from increased tax revenues. However, the magnitude of these revenues cannot be determined.

### BILL DESCRIPTION

This bill increases the amount of the corporation business and gross income tax credits that are available for qualified investments under the New Jersey Angel Investor Tax Credit Act from 10 to 20 percent of the qualified investment made by a taxpayer in a New Jersey emerging technology business or in a New Jersey emerging technology business holding company that

makes a verified transfer of funds to a New Jersey emerging technology business. The bill also provides that a taxpayer may be allowed a tax credit in an amount equal to 25 percent of the qualified investment if the emerging technology business is located in a qualified opportunity zone or low-income community, as defined by federal law, or is certified by the State as a minority or women's business.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS projects that the State may incur an annual revenue loss of up to \$15 million as a result of this bill. Pursuant to current law, the Angel Investor Tax Credit Program has an annual cap of \$25 million. As the program has yet to utilize all of the available cap space in any year, the OLS anticipates that the enhanced credit amount under the bill will absorb more of the available cap space, if not all of it.

A taxpayer, filing in New Jersey, who invests in a qualifying New Jersey emerging technology business with fewer than 225 employees, at least 75 percent of whom work in New Jersey, is eligible for a tax credit against the taxpayer's gross income tax liability or corporation business tax liability. The tax credit is equal to 10 percent of the qualified investment made in an emerging technology business, up to a maximum allowed credit of \$500,000 for each qualified investment, with the entire tax credit program being capped at \$25 million annually. According to OLS Discussion Points for the New Jersey Economic Development Authority, approximately \$9.1 million in tax credits were awarded in calendar year (CY) 2016, \$11.2 million in CY 2017, and \$10.7 million in CY 2018 under the program.

The bill increases the tax credit amount to 20 percent of the qualified investment made in a New Jersey emerging technology business, and may be increased to 25 percent of the qualified investment if the New Jersey emerging technology business is located in a qualified opportunity zone or low-income community or is certified as a minority or women's business. The bill does not modify the annual program cap (\$25 million) or the maximum allowable credit (\$500,000). Based on program activity in CY 2018, if the tax credits awarded in CY 2018 were calculated based on 20 percent of a qualified investment, as opposed to 10 percent of the qualified investment, the total amount awarded in CY 2018 could have been roughly \$21.4 million.

Some of the qualified investments made during CY 2018 were substantial enough to reach the \$500,000 threshold under the 10 percent calculation. Thus, those investments would not benefit from this bill and would have less of an impact on State revenues. The OLS notes that the enhanced credit could incentivize more activity under the program, which could in turn utilize the remaining available cap space. However, due to the annual program cap and the tax credit cap, the aggregate impact of the program on State revenues will never exceed \$25 million annually. Based on average cap utilization of about \$10 million annually over the last three years, the OLS estimates this bill's impact to be up to \$15 million per year.

To the extent that additional investments in emerging technology businesses resulting from this bill spur greater economic activity, the State and local governments could benefit from increased tax revenues. However, the magnitude of these revenues cannot be determined.

*Section: Revenue, Finance and Appropriations*

*Analyst: Jordan DiGiovanni  
Revenue Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



# Governor Murphy Signs Fiscal Year 2020 Budget into Law and Acts on Other Legislation

06/30/2019

**TRENTON** - Today, Governor Phil Murphy took action on the following bills:

## **BILLS SIGNED:**

**A-5601/S-3956 (Pintor Marin, Jones, Johnson/Sarlo)** – with Line Item Veto – Makes Fiscal Year 2019 State supplemental appropriations totaling \$34,208,000.

[Line Item Veto of A-5601](#)

[Line Item Veto Message on A-5601](#)

**S-3042/A-4619 (Sarlo, Oroho/Pintor Marin, Wirths)** – Creates subaccounts for SHBP and SEHBP health care services and prescription drug claims; requires procurement by State of third-party medical claims reviewer.

**S-3599/A-5185 (Singleton/Wimberly, Jasey, Speight)** – Revises neighborhood revitalization tax credit program to increase permitted annual tax credit allocation to \$15 million.

**A-5604/S-2298 (Freiman, Pinkin, Milam, DePhillips, Zwicker, Land/Corrado, Singleton)** – Increases tax credit provided for qualified investments under "New Jersey Angel Investor Tax Credit Act."

**A-5609/S-3960 (Land, Freiman, Armato, Johnson, Mukherji, Milam, Mazzeo/Sarlo, Addiego)** – Increases gross income tax deduction available to veterans from \$3,000 to \$6,000.

**A-5385/S-3877 (Burzichelli, Pintor Marin, Reynolds-Jackson/Sarlo, Singleton)** – Concerns sale, taxation, and forfeiture of container e-liquid.

**A-5603/S-3957 (McKeon, Jones/Pou)** – Increases annual assessment on net written premiums of HMOs to support charity care from two percent to three percent in FY 2020.

**A-5607/S-3958 (Murphy, Johnson/Sweeney)** – Provides limited period for dissolution or reinstatement of revoked or inactive business charters using expedited process, allows for payment of reduced administrative fee, and revises certain business filing fees.

**S-2020/A-5600 (Sarlo/Pintor Marin, Burzichelli)** – with Line Item Veto – Appropriates \$38,748,610,000 in State funds and \$16,748,645,972 in federal funds for the State budget for fiscal year 2019-2020.

[Line Item Veto of S-2020](#)

[Line Item Veto Message on S-2020](#)

**A-5610/S-3984 (McKnight, Quijano, Mosquera, Mukherji/Weinberg)** – Makes FY 2020 supplemental appropriation of \$12.453 million; amends appropriations for Camp Irvington and Turtle Back Zoo; adds language provision appropriating \$3.1 million for immigration status-related legal assistance.

**A-5611/S-3987 (Timberlake, Giblin, McKeon/Codey, Gill)** – Makes Fiscal Year 2020 State supplemental appropriation of \$7,500,000 for East Orange General Hospital.

## **BILLS VETOED:**

**A-5098/S-3491 (Pintor Marin, Chaparro, Jimenez/Ruiz, Codey)** – CONDITIONAL – Raises, over time, hourly Medicaid reimbursement rate for personal care services to \$25.

[Copy of Message on A-5098](#)