

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.

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