

# ASSEMBLY, No. 3943

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 10, 2018

**Sponsored by:**

**Assemblyman ANTHONY M. BUCCO**

**District 25 (Morris and Somerset)**

**SYNOPSIS**

Provides assistance to business accelerators and incubators and startup businesses located within those business accelerators and incubators.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning assistance to business accelerators and  
 2 incubators and to startup businesses located within those  
 3 business accelerators and incubators, supplementing P.L.1974,  
 4 c.80 (C.34:1B-1 et seq.), Title 54 of the Revised Statutes, Title  
 5 54A of the New Jersey Statutes, and amending P.L.1997, c.349.

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

9  
 10 1. (New section) As used in P.L. , c. (C. ) (pending  
 11 before the Legislature as this bill):

12 “Accelerator business” means a corporation, partnership, limited  
 13 liability company, or sole proprietorship, located within the  
 14 confines of a business accelerator, that is supported by private  
 15 sources of capital, including, but not limited to, private equity,  
 16 angel investment, or venture capital that:

17 a. is in the earliest formative stage of development;

18 b. is engaged in the design, development, and introduction of  
 19 new biotechnology, information technology, logistics technology,  
 20 re-manufacturing, advanced materials, processing engineering or  
 21 electronic device technology products, or innovative manufacturing  
 22 processes; and

23 c. meets any other requirements for an accelerator business as  
 24 the authority shall develop as determined by the authority.

25 “Advanced computing,” “advanced materials,” “information  
 26 technology,” and “life sciences” shall have the same meaning as  
 27 provided in section 2 of P.L.1997, c.349 (C.54:10A-5.29).

28 “Advanced technology center” means programs or departments  
 29 at the State’s public and private institutions of higher education  
 30 which are provided financial support from those institutions of  
 31 higher education to promote innovative technology research  
 32 including those established pursuant to law, including, but not  
 33 limited to, P.L.1985, c.102 (C.52:9X-1 et seq.), P.L.1985, c.103  
 34 (C.18A:64J-1 et seq.), P.L.1985, c.104 (C.18A:64J-8 et seq.),  
 35 P.L.1985, c.105 (C.18A:64J-15 et seq.), and P.L.1985, c.106  
 36 (C.18A:64J-22 et seq.).

37 “Angel investment” means the non-refundable transfer of cash to  
 38 an incubator business by an established business that is not a related  
 39 person of the incubator business, the transfer of which is in  
 40 connection with either:

41 a. a transaction in exchange for stock, interests in partnerships  
 42 or joint ventures, exclusive or non-exclusive licenses, rights to use  
 43 technology, marketing rights, warrants, options, or any items  
 44 similar to those included herein, including but not limited to options  
 45 or rights to acquire any of the items included herein; or

**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       b. a purchase, production, or research agreement.

2       “Authority” means the New Jersey Economic Development  
3 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

4       “Big data” shall have the same meaning as provided in section 1  
5 of P.L.2014, c.33 (C.52:17C-3.4).

6       “Biotechnology,” “environmental technology,” “electronic  
7 device technology,” and “medical device technology,” shall have  
8 the same meaning as provided in section 2 of P.L.1996, c.26  
9 (C.34:1B-125).

10       “Business accelerator” means a business development facility  
11 that is located within an urban transit hub or within one mile of a  
12 campus of a research institution that provides low-cost space and  
13 technical assistance, for short-term occupancy, to an accelerator  
14 business for a term of not more than six months. A “business  
15 accelerator” may include, but shall not be limited to, an advanced  
16 technology center or a technology extension service.

17       “Business incubator” means a business development facility that  
18 is located within an urban transit hub or within one mile of a  
19 campus of a research institution that provides low-cost space and  
20 technical assistance, for short-term occupancy, to an incubator  
21 business. A “business incubator” may include, but shall not be  
22 limited to, an advanced technology center or a technology extension  
23 service.

24       “Development program” means the “Startup Businesses in  
25 Business Incubators Development Program” established pursuant to  
26 section 2 of P.L. , c. (C. ) (pending before the Legislature  
27 as this bill).

28       “Eligible incubator business student hire” means an individual  
29 employed by the taxpayer for consideration whose wages are  
30 subject to withholding as provided in the "New Jersey Gross  
31 Income Tax Act," N.J.S.54A:1-1 et seq., and who is enrolled full-  
32 time in a science or technology business-related course of study at a  
33 research institution or has successfully completed a science or  
34 technology business-related course of study at a research institution  
35 not more than 360 days prior to the date the individual is employed  
36 by the taxpayer.

37       “Grant program” means the means the “Business Accelerator and  
38 Business Incubator Network Grant Program” established pursuant  
39 to section 5 of P.L. , c. (C. ) (pending before the Legislature  
40 as this bill).

41       “Incubator business” means a corporation, partnership, limited  
42 liability company, or sole proprietorship, located within the  
43 confines of a business incubator, that is supported by private  
44 sources of capital, including, but not limited to, private equity,  
45 angel investment, or venture capital that:

46       a. is in a formative stage of development or has transferred  
47 directly from a business accelerator;

1       b. is engaged in the design, development, and introduction of  
2 new biotechnology, information technology, logistics technology,  
3 re-manufacturing, advanced materials, processing engineering or  
4 electronic device technology products, or innovative manufacturing  
5 processes; and

6       c. meets any other requirements for an incubator business as  
7 the authority shall develop as determined by the authority.

8       "New Jersey emerging technology business" shall have the same  
9 meaning as provided in section 2 of P.L.1997, c.349 (C.54:10A-  
10 5.29).

11       "Research institution" means an institution of higher education,  
12 as that term is defined in section 2 of P.L.1977, c.123 (C.18A:68-  
13 11.2), a research hospital, or any combination thereof.

14       "Secretary" means the Secretary of Higher Education appointed  
15 pursuant to section 2 of P.L.2009, c.208 (C.18A:3B-47).

16       "Support services" means the provision of publicly or privately-  
17 supported, low-cost, short-term occupancy, rental space and  
18 technology extension services wherein financial and other types of  
19 business or technical assistance is provided to an accelerator  
20 business or incubator business by a business accelerator or  
21 incubator.

22       "Technology extension service" means a program to accelerate  
23 the application and transfer of technological innovation by the  
24 research institutions to an accelerator business or incubator  
25 business, specifically to work with the State's accelerator businesses  
26 or incubator businesses to adapt these innovations to the  
27 requirements of individual business operations.

28       "Urban transit hub" shall have the same meaning as provided in  
29 section 2 of P.L.2007, c.346 (C.34:1B-208).

30

31       2. (New section) a. The authority, in consultation with the  
32 Secretary of Higher Education, shall establish and administer the  
33 "Startup Businesses in Business Incubators Development Program"  
34 for the purpose of providing financial assistance and support  
35 services, directly and through public-private partnerships with  
36 business accelerators and business incubators, to:

37       (1) an accelerator business located within a business accelerator  
38 that provides support services, mentoring, and physical space to the  
39 accelerator business; or

40       (2) an incubator business located within a business incubator  
41 that provides support services, guidance, physical space, access to  
42 capital, and collaborative programming with a research institution,  
43 including collaborations to accommodate eligible incubator  
44 business student hires, to the incubator business.

45       b. The authority shall provide financial assistance to a business  
46 accelerator or a business incubator in an amount that matches 20  
47 percent of the amount of financial assistance and support services  
48 provided by a research institution, up to a total of \$200,000, which

1 may be applied to any aspect of an accelerator business or an  
2 incubator business operating within the business accelerator or  
3 business incubator.

4 c. In order to be eligible for financial assistance from the  
5 authority, in accordance with subsection b. of this section, a  
6 business accelerator or a business incubator, at the time of jointly  
7 submitting an application for development program eligibility, shall  
8 provide proof that it provides business development facilities and  
9 business development assistance to an accelerator business or an  
10 incubator business operating in one of the following fields:

- 11 (1) clean energy or environmental technology;
- 12 (2) life sciences, biotechnology, or medical device technology;
- 13 (3) advanced materials, engineering, or manufacturing;
- 14 (4) supply chain, transportation, or logistics;
- 15 (5) big data, advanced computing, or digital technology;
- 16 (6) defense or homeland security; or
- 17 (7) food and agriculture.

18 d. (1) The authority and the secretary shall, as they deem  
19 appropriate, promote and facilitate public-private partnerships  
20 between accelerator and incubator businesses, business accelerators  
21 and incubators, and research institutions.

22 (2) The authority and the secretary shall adopt rules and  
23 regulations to promote and facilitate public-private partnerships and  
24 to establish the parameters of public-private partnership agreements  
25 necessary for an accelerator business or an incubator business to  
26 qualify for tax credits pursuant to sections 7 or 8 of P.L. ,

27 c. (C. ) (pending before the Legislature as this bill).

28 (3) The rules and regulations shall include, but not be limited to,  
29 the following elements of public-private partnership agreements:

30 (a) requirements and guidelines for use of the expertise and  
31 research capabilities of research institutions by an accelerator  
32 business or an incubator business;

33 (b) requirements and guidelines for licensing rights authorizing  
34 a research institution to use research and technology produced by an  
35 accelerator business or an incubator business under a public-private  
36 partnership agreement;

37 (c) requirements and guidelines for incubator business  
38 employment opportunities for students enrolled in science and  
39 technology business programs at research institutions and eligible  
40 incubator business student hires; and

41 (d) requirements and guidelines for incubator business  
42 internships for students enrolled in science and technology business  
43 programs at research institutions and eligible incubator business  
44 student hires.

45 e. An accelerator business or an incubator business shall not  
46 qualify for tax credits pursuant to sections 7 or 8 of P.L. ,

47 c. (C. ) (pending before the Legislature as this bill) unless the

1 agreement complies with the requirements and guidelines of  
2 paragraph (3) of subsection d. of this section.

3  
4 3. (New section) a. An accelerator business or an incubator  
5 business seeking to participate in the development program shall,  
6 jointly with a business accelerator or a business incubator, submit  
7 an application in a form and manner as the authority shall require.  
8 The application shall include information the authority determines  
9 is necessary to administer the development program. An  
10 accelerator business or an incubator business seeking to participate  
11 in the development program shall, jointly with the hosting business  
12 accelerator or business incubator, submit to the authority  
13 documentation stating that participation in the development  
14 program will be a contributing factor towards the financial success  
15 of the accelerator business or incubator business.

16 b. The authority shall review and may approve an application  
17 for the development program. The authority shall approve an  
18 application for development program eligibility pursuant to an  
19 agreement with an accelerator business or an incubator business and  
20 the business accelerator or business incubator hosting the  
21 accelerator business or incubator business subject to the submission  
22 of proof by an approved development program applicant of the  
23 expenditures contributing to the success of an accelerator business  
24 or incubator business assisted by the business accelerator or  
25 incubator. An applicant who fails to comply with an agreement, as  
26 a condition of receiving financial assistance, shall repay any  
27 financial assistance received and, if so determined by the authority,  
28 shall pay a penalty not in excess of 10 percent of the amount of  
29 financial assistance.

30  
31 4. (New section) a. The authority shall establish and maintain  
32 the "Startup Businesses in Business Incubators Development  
33 Program" established pursuant to section 2 of P.L. , c. (C. )  
34 (pending before the Legislature as this bill) with monies to be used  
35 by the authority for the purposes specified in P.L. , c. (C. )  
36 (pending before the Legislature as this bill). Monies to be utilized  
37 by the development program shall include, but not be limited to:

38 (1) monies as may be available to the authority from other  
39 business development programs administered by the authority or  
40 other State agencies or authorities, and which the authority  
41 determines to be necessary in light of the volume of applications  
42 from accelerator businesses and incubator businesses for eligibility  
43 for the development program as necessary to implement the  
44 purposes of P.L. , c. (C. ) (pending before the Legislature as  
45 this bill); and

46 (2) other monies as may be made available to the authority from  
47 public or private sources.

1       b. Monies in the development program which are not allocated  
2 for current responsibilities of the development program may be  
3 invested by the authority in any direct obligations as to which  
4 principal and interest are guaranteed by the United States of  
5 America or any other obligation deemed appropriate by the  
6 authority.

7  
8       5. (New section) a. The authority shall establish and administer  
9 the “Business Accelerator and Business Incubator Network Grant  
10 Program” for the purpose of awarding grants to business  
11 accelerators or business incubators, based upon a competitive  
12 application and evaluation process.

13       b. In addition to the financial assistance provided pursuant to  
14 subsection b. of section 2 of P.L. , c. (C. ) (pending before  
15 the Legislature as this bill), the authority shall annually,  
16 commencing with the calendar year next beginning after the  
17 effective date of P.L. , c. (C. ) (pending before the  
18 Legislature as this bill), and for the six subsequent calendar years  
19 provide 10 business accelerator and business incubator network  
20 grants, equaling \$100,000 each, to business accelerators or business  
21 incubators, which may be applied to:

22       (1) any aspect of the business accelerator or business incubator  
23 that provides support to incubator businesses in the business  
24 accelerator or business incubator as determined by the authority; or

25       (2) any aspect of an accelerator business or incubator business  
26 operating within the business accelerator or business incubator.

27       c. In order to be eligible for a grant, a business accelerator or  
28 business incubator at the time of application for program eligibility,  
29 must qualify to receive financial assistance provided pursuant to  
30 section subsection b. of section 2 of P.L. , c. (C. )  
31 (pending before the Legislature as this bill)

32       d. A business accelerator or business incubator seeking to  
33 participate in the grant program shall submit an application in a  
34 form and manner as the authority shall require. The application  
35 shall include information that the authority determines to be  
36 necessary to evaluate applications and administer the grant  
37 program.

38       e. The authority shall annually review and evaluate  
39 applications for the grant program, and make award decisions upon  
40 evaluating the:

41       (1) strength of a business accelerator’s or business incubator’s  
42 partnerships with, and ability to foster, innovative accelerator  
43 businesses or incubator businesses;

44       (2) strength of a business accelerator’s or business incubator’s  
45 partnerships with a research institution;

46       (3) comprehensiveness of the a business accelerator’s or  
47 business incubator’s support services and technology extension  
48 services; and

1 (4) strength of the business accelerator's or business incubator's  
2 partnerships with minority businesses and women's businesses, as  
3 those terms are defined in section 2 of P.L.1986, c.195 (52:27H-  
4 21.18).

5 f. The authority shall issue payment of the grant amounts  
6 pursuant to a grant agreement with a business accelerator or  
7 business incubator as the authority may determine and shall subject  
8 the approval of the agreement to the submission of proof by an  
9 applicant of the expenditures contributing to the success of an  
10 accelerator business or an incubator business assisted by the  
11 business accelerator or business incubator. A grantee who fails to  
12 comply with a grant agreement made as a condition of a grant  
13 award shall repay any grant amount received and, if so determined  
14 by the authority, shall pay a penalty not in excess of 10 percent of  
15 the grant amount.

16 g. (1) The authority shall establish and maintain the grant  
17 program with monies to be used by the authority for the purposes  
18 specified in this section. Monies to be utilized by the development  
19 program shall include, but not be limited to:

20 (a) monies as may be available to the authority from other  
21 business development programs administered by the authority or  
22 other State agencies or authorities, and which the authority  
23 determines to be necessary in light of the volume of applications  
24 from accelerator businesses and incubator businesses for eligibility  
25 for the development program as necessary to implement the  
26 purposes of P.L. , c. (C. ) (pending before the Legislature as  
27 this bill); and

28 (b) other monies as may be made available to the authority from  
29 public or private sources.

30 (2) Monies in the grant program which are not allocated for  
31 current responsibilities of the development program may be  
32 invested by the authority in any direct obligations as to which  
33 principal and interest are guaranteed by the United States of  
34 America or any other obligation deemed appropriate by the  
35 authority.

36  
37 6. (New section) a. Within one year after the effective date of  
38 P.L. , c. (C. ) (pending before the Legislature as this bill) and  
39 annually thereafter, the authority shall prepare a report on the  
40 "Startup Businesses in Business Incubators Development Program"  
41 and the "Business Accelerator and Business Incubator Network  
42 Grant Program," and deliver the report to the Governor and,  
43 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the  
44 Legislature, and make the report available to the public on the  
45 authority's Internet site. The report shall include the number,  
46 names, and types of accelerator businesses and incubator businesses  
47 and the names of the business accelerators and incubators

1 participating in the development program and the grant program,  
2 the total amount of financial assistance provided to business  
3 accelerator and business incubator, the amount of financial  
4 assistance received per accelerator business or incubator business,  
5 the cumulative total value of tax credits provided to taxpayers for  
6 qualified investments in New Jersey emerging technology  
7 businesses under section 3 of P.L.1997, c.349 (C.54:10A-5.30) that  
8 are located in a business accelerator or a business incubator, and  
9 any other information as the authority determines is necessary to  
10 evaluate the progress of the development program.

11 b. In the sixth annual report submitted by the authority  
12 pursuant to this section, the authority shall include a  
13 recommendation to the Governor and the Legislature on whether to  
14 renew or discontinue:

15 (1) the grant program enacted pursuant to section 5 of P.L. ,  
16 c. (C. ) (pending before the Legislature as this bill); and

17 (2) the tax credits enacted pursuant to sections 7 and 8 of P.L. ,  
18 c. (C. ) (pending before the Legislature as this bill).

19

20 7. (New section) a. For the privilege period next beginning  
21 after the effective date of P.L. , c. (C. ) (pending before the  
22 Legislature as this bill), and for the six subsequent privilege  
23 periods, a taxpayer that is an accelerator business or incubator  
24 business, as defined pursuant to section 1 of P.L. , c. (C. )  
25 (pending before the Legislature as this bill), shall be allowed a  
26 credit for the privilege period against the tax imposed pursuant to  
27 section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to 15  
28 percent of the taxpayer's business operating expenses during the  
29 taxpayer's participation in the "Startup Businesses in Business  
30 Incubators Development Program," as determined by the authority,  
31 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
32 this bill), that is allowed for the privilege period. A taxpayer may  
33 carry forward an unused credit for use in the six privilege periods  
34 following the privilege period for which the credit is allowed, if  
35 necessary.

36 b. The order of priority of the application of the credit allowed  
37 pursuant to this section and any other credits allowed by law shall  
38 be prescribed by the director. The amount of the credit applied  
39 under this section against the tax imposed pursuant to section 5 of  
40 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
41 any other credits allowed by law, shall not exceed 50 percent of the  
42 tax liability otherwise due and shall not reduce the tax liability to an  
43 amount less than the statutory minimum provided in subsection (e)  
44 of section 5 of P.L.1945, c.162 (C.54:10A-5). An amount of  
45 expense claimed as a credit pursuant to this section shall not be  
46 allowed as an amount calculated or claimed pursuant to any other  
47 credit against the tax imposed pursuant to section 5 of P.L.1945,  
48 c.162 (C.54:10A-5).

1 c. If the amount of credit allowed pursuant to subsection a. of  
2 this section for a privilege period, together with any other payments  
3 or credits against the tax, reduces the tax liability otherwise due for  
4 the privilege period to zero, the taxpayer may elect to claim the  
5 total amount of the credit remaining as an overpayment for the  
6 purposes of R.S.54:49-15 to be paid as a refund in an amount equal  
7 to 50 percent of the total amount claimed, provided, however, that  
8 section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

9  
10 8. (New section) a. For the taxable year next beginning after  
11 the effective date of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill), and for the six subsequent taxable years, a  
13 taxpayer that is an accelerator business or incubator business, as  
14 defined pursuant to section 1 of P.L. , c. (C. ) (pending  
15 before the Legislature as this bill), shall be allowed a credit for the  
16 taxable year against the tax otherwise due for the taxable year  
17 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
18 et seq., in an amount equal to 15 percent of the taxpayer's business  
19 operating expenses during the taxpayer's participation in the  
20 "Startup Businesses in Business Incubators Development Program,"  
21 as determined by the authority, pursuant to P.L. , c. (C. )  
22 (pending before the Legislature as this bill), that is allowed for the  
23 taxable year. A taxpayer may, if necessary, carry forward an  
24 unused credit for use in the six taxable years following the taxable  
25 year for which the credit is allowed.

26 b. The order of priority of the application of the credit allowed  
27 pursuant to this section and any other credits allowed by law shall  
28 be prescribed by the director. The amount of the credit applied  
29 under this section against the tax imposed pursuant to "New Jersey  
30 Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year  
31 together with any other credits allowed by law, shall not exceed 50  
32 percent of the tax liability otherwise due. An amount of expense  
33 claimed as a credit pursuant to this section shall not be allowed as  
34 an amount calculated or claimed pursuant to any other credit against  
35 the tax imposed pursuant to "New Jersey Gross Income Tax Act,"  
36 N.J.S.54A:1-1 et seq.

37 A business entity classified as a partnership for federal income  
38 tax purposes shall not be allowed a credit directly under the gross  
39 income tax, but the amount of the credit of a taxpayer in respect of  
40 a distributive share of partnership income shall be determined by  
41 allocating to the taxpayer that proportion of the credit acquired by  
42 the partnership that is equal to the taxpayer's share, whether or not  
43 distributed, of the total distributive income or gain of the  
44 partnership for its taxable year ending within or with the taxpayer's  
45 taxable year.

46 A New Jersey S Corporation shall not be allowed a credit  
47 directly under the gross income tax, but the amount of the credit of

1 a taxpayer in respect of a pro rata share of S Corporation income  
2 shall be determined by allocating to the taxpayer that proportion of  
3 the credit acquired by the New Jersey S Corporation that is equal to  
4 the taxpayer's share, whether or not distributed, of the total pro rata  
5 share of S Corporation income of the New Jersey S Corporation for  
6 its privilege period ending within or with the taxpayer's taxable  
7 year.

8 c. If the amount of credit allowed pursuant to subsection a. of  
9 this section for a taxable year, together with any other payments or  
10 credits against the tax, reduces the tax liability otherwise due for the  
11 taxable year to zero, the taxpayer may elect to claim the total  
12 amount of the credit remaining as an overpayment of tax pursuant  
13 to N.J.S.54A:9-7 to be paid as a refund in an amount equal to 50  
14 percent of the total amount claimed; provided, however, that  
15 subsection (f) of that section, concerning the allowance of interest,  
16 shall not apply.

17

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

20 3. a. A taxpayer, upon approval of the taxpayer's application  
21 therefor by the New Jersey Economic Development Authority and  
22 in consultation with the director, shall be allowed a credit against  
23 the tax imposed pursuant to section 5 of P.L.1945, c.162  
24 (C.54:10A-5), in an amount equal to 10 percent of the qualified  
25 investment made by the taxpayer in a New Jersey emerging  
26 technology business, or in a New Jersey emerging technology  
27 business holding company that makes a verified transfer of funds to  
28 a New Jersey emerging technology business, up to a maximum  
29 allowed credit of \$500,000 for the tax year for each qualified  
30 investment made by the taxpayer.

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

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

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

47 d. A taxpayer may not carry over any amount of credit allowed  
48 under subsection a. of this section to a tax year during which a

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

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

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

45 g. The Executive Director shall provide a cumulative total of at  
46 least \$5,000,000 in tax credits approved pursuant to subsection f. of  
47 this section over a period of five calendar years next following the  
48 effective date of P.L. , c. (C. ) (pending before the

1 Legislature as this bill), to taxpayers for qualified investments in  
2 New Jersey emerging technology businesses that are located in a  
3 business accelerator or a business incubator, as those terms are  
4 defined in section 1 of P.L. , c. (C. ) (pending before the  
5 Legislature as this bill).

6 h. The Executive Director shall work with the Business Action  
7 Center in the Department of State to encourage qualified  
8 investments in New Jersey emerging technology businesses that are  
9 located in a business accelerator or a business incubator, as those  
10 terms are defined in section 1 of P.L. , c. (C. ) (pending  
11 before the Legislature as this bill).

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

13  
14 10. This act shall take effect immediately, but shall remain  
15 inoperative for 60 days following the date of enactment. Sections 7  
16 and 8 shall apply to privilege periods and taxable years beginning  
17 on or after the January 1 next following the date of enactment.

#### 20 STATEMENT

21  
22 This bill directs the New Jersey Economic Development Authority  
23 (EDA), in consultation with the Secretary of Higher Education  
24 (secretary), to establish and administer the “Startup Businesses in  
25 Business Incubators Development Program” (program) to provide  
26 financial assistance and support services to an accelerator business or  
27 incubator business located within a business accelerator or incubator.  
28 To qualify, a business accelerator or incubator is required to be located  
29 within an urban transit hub or within one mile of a research institution  
30 campus. The EDA is to provide financial assistance to a business  
31 accelerator or incubator in an amount that matches 20 percent of the  
32 amount of funding provided by a research institution up to a total of  
33 \$200,000, which may be applied to any aspect of an accelerator or  
34 incubator business operating within the accelerator or incubator.

35 The bill requires that, in order to be eligible for financial assistance  
36 from the EDA, an accelerator or incubator business at the time of  
37 jointly submitting an application for program eligibility, operates in  
38 one of several specified fields.

39 The bill requires the EDA and the secretary to promote and  
40 facilitate public-private partnerships between businesses, accelerators  
41 and incubators, and New Jersey research institutions through the  
42 adoption of rules and regulations promoting and facilitating public-  
43 private partnerships and to establish the parameters of public-private  
44 partnership agreements.

45 An accelerator or incubator business seeking to participate in the  
46 program is to submit an application jointly with an accelerator or  
47 incubator in a form and manner as the EDA requires. The EDA is to  
48 provide financial assistance to an accelerator or incubator pursuant to

1 an agreement. An applicant that fails to comply with the agreement  
2 made as a condition of receiving financial assistance is to repay any  
3 financial assistance received and, if determined by the EDA, is to pay  
4 a penalty not in excess of 10 percent of the amount of financial  
5 assistance.

6 The EDA is to establish and maintain the program with the  
7 following sources of funds: 1) funds as may be available to the EDA  
8 from other business development programs administered by the EDA  
9 or other State agencies or authorities, and which the EDA determines  
10 to be necessary in light of the volume of applications from accelerator  
11 and incubator businesses for eligibility under the program as necessary  
12 to implement the bill; and 2) other monies as may be made available to  
13 the EDA from public or private sources.

14 The bill also requires the EDA to administer and establish a  
15 “Business Accelerator and Business Incubator Network Grant  
16 Program” to provide 10 grants annually, for seven years, to business  
17 accelerators or business incubators, based upon a competitive  
18 application and evaluation process. The grants provided under the  
19 program are required to equal \$100,000 each. In order to be eligible  
20 for a grant, a business accelerator or business incubator is required to  
21 qualify to receive financial assistance under the “Startup Businesses in  
22 Business Incubators Development Program.” The bill requires the  
23 EDA to evaluate applications for the grant program and make award  
24 decisions upon evaluating the business accelerator’s or business  
25 incubator’s partnerships with innovative businesses, partnerships with  
26 a research institution, provision of support services and technology  
27 extension services, and partnerships with minority businesses and  
28 women’s businesses. The EDA is required to fund the grant program  
29 through monies as may be available to the EDA from other business  
30 development and from other monies available to the EDA from public  
31 or private sources.

32 The bill provides corporation business tax credits and gross income  
33 tax credits, for seven tax periods, for accelerator and incubator  
34 businesses participating in the development program. The credits are  
35 equal to 15 percent of the cost of accelerator or incubator business  
36 operating expenses during the business’s participation in the program.  
37 The taxpayer may carry unused tax credits forward, if necessary, for  
38 seven tax periods or may file a petition for a refund equal to 50 percent  
39 of the amount of an unused tax credit.

40 The bill also requires the Executive Director of the EDA to provide  
41 at least \$5,000,000 in tax credits available under the “New Jersey  
42 Angel Investor Tax Credit Act” to taxpayers for qualified investments  
43 in New Jersey emerging technology businesses located in business  
44 accelerators and business incubators over the period of the five fiscal  
45 years next following the effective date of the bill.

46 The bill requires the EDA to prepare an annual report on the  
47 program, deliver the report to the Governor and the Legislature, and  
48 make the report available to the public on the authority’s website.

- 1 The sixth annual report is required to recommend to the Governor and
- 2 the Legislature, whether the grant program, business tax credits, and
- 3 gross income tax credits should be renewed or discontinued.