

ASSEMBLY, No. 3196

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

SYNOPSIS

“New Jersey Venture Investment and Employment Program Act”; establishes program under NJ EDA to provide for qualified investments of capital in qualified businesses.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing a program to provide for qualified investments
2 of capital in qualified businesses and supplementing P.L.1974,
3 c.80 (C.34:1B-1 et seq.).
4

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

8 1. This act shall be known and may be cited as the “New Jersey
9 Venture Investment and Employment Program Act.”
10

11 2. As used in P.L. , c. (C.) (pending before the
12 Legislature as this bill):

13 “Assignee” means a person issued a tax credit certificate by the
14 authority in accordance with section 9 or section 11 of
15 P.L. , c. (C.) (pending before the Legislature as this bill).

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

18 “Board” means the New Jersey Venture Investment and
19 Employment Program Advisory Board established by section 16 of
20 P.L. , c. (C.) (pending before the Legislature as this bill).

21 “Chief executive officer” means the chief executive officer of the
22 authority.

23 “Director of the Division of Revenue and Enterprise Services”
24 means the Director of the Division of Revenue and Enterprise
25 Services in the Department of the Treasury.

26 “Director of the Division of Taxation” means the Director of the
27 Division of Taxation in the Department of the Treasury.

28 “Economically distressed community” means a population
29 census tract in this State, or in the case of an area not tracted for
30 population census tracts the equivalent county division in this State,
31 in which the poverty rate for that tract is not less than 20 percent;
32 and 50 percent or more of the households in that tract have an
33 income equal to or less than 60 percent of the area median gross
34 income, if the tract is located within a metropolitan area, or the
35 median household income in that tract does not exceed 80 percent
36 of the Statewide median household income, if the tract is not
37 located within a metropolitan area. “Economically distressed
38 community” shall also include an area located within: an
39 Historically Underutilized Business Zone as that term is defined by
40 subsection (p) of section 3 of Pub.L.85-536 (15 U.S.C. s.632); an
41 Urban Empowerment Zone or Urban Enterprise Community, as
42 designated by the Secretary of the United States Department of
43 Housing and Urban Development; or a Rural Empowerment Zone
44 or Rural Enterprise Community, as designated by the Secretary of
45 the United States Department of Agriculture. “Program” means
46 the New Jersey Venture Investment and Employment Program
47 established by section 3 of P.L. , c. (C.) (pending before the
48 Legislature as this bill).

1 “Program fund” means the New Jersey Venture Investment and
2 Employment Program Fund established pursuant to section 4 of
3 P.L. , c. (C.) (pending before the Legislature as this bill).

4 “Purchaser” means a person issued a tax credit certificate by the
5 authority in accordance with section 7 of P.L. , c. (C.)
6 (pending before the Legislature as this bill).

7 “Qualified business” means a business that, at the time of the
8 receipt of a qualified investment of capital by a qualified venture
9 firm, is registered to do business in this State with the Director of
10 the Division of Revenue and Enterprise Services; maintains its
11 principal business operations in this State and intends to maintain
12 its principal business operations in this State after the receipt of a
13 qualified investment of capital; and employs fewer than 250
14 persons. “Qualified business” shall not include a business that is
15 engaged in: retail sales; real estate development; insurance,
16 banking, or lending; or the provision of professional services by
17 accountants, attorneys, or physicians.

18 “Qualified investment of capital” means the investment of cash
19 or equity in a qualified business by a qualified venture firm for the
20 purchase of: a share of stock or other equity interest, a debt
21 instrument convertible into equity, or an equity participation
22 instrument.

23 “Qualified venture firm” means a venture firm that is certified as
24 a qualified venture firm by the authority in accordance with section
25 20 of P.L. , c. (C.) (pending before the Legislature as this
26 bill).

27 “State tax credit” means a tax credit that may be applied to
28 reduce a State tax liability.

29 “State tax liability” means a liability for a tax that is payable to
30 or collectible by the Director of the Division of Taxation.

31 “Venture firm” means a partnership, corporation, trust, or limited
32 liability company that invests cash or equity in a business during
33 the early or expansion stages of a business in exchange for an
34 equity stake in the business in which the investment is made and
35 that represents to its investors and its potential investors that it
36 pursues a venture capital strategy.

37

38 3. There is established the New Jersey Venture Investment and
39 Employment Program.

40 The program shall be under the jurisdiction of the authority and
41 shall be administered by the chief executive officer and any clerical,
42 technical, and other professional assistants as may be designated by
43 the chief executive officer from among the personnel appointed and
44 employed by the authority.

45 The purpose of the program shall be to facilitate economic
46 development and the creation of jobs in this State, particularly in
47 economically distressed communities.

1 To effectuate those purposes, the authority shall establish and
2 maintain a dedicated fund, generate money to be credited to the
3 fund through the issuance and the sale of State tax credits, and
4 allocate money from the fund to qualified venture firms for
5 qualified investments of capital in qualified businesses.

6
7 4. The authority shall establish and maintain a dedicated fund
8 in the Department of the Treasury to be known as the “New Jersey
9 Venture Investment and Employment Program Fund.”

10 The authority shall credit to the program fund: private financial
11 consideration paid to the authority in accordance with sections 7, 9,
12 and 11 of P.L. , c. (C.) (pending before the Legislature as
13 this bill); penalties collected by the Director of the Division of
14 Taxation in accordance with sections 8, 10, and 12 of
15 P.L. , c. (C.) (pending before the Legislature as this bill);
16 distributions from payments or repayments made to the authority in
17 accordance with section 26 of P.L. , c. (C.) (pending before
18 the Legislature as this bill); and earnings received, if any, from the
19 investment or reinvestment of money credited to the program fund
20 in the State of New Jersey Cash Management Fund established
21 pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4).

22 The authority shall utilize the program fund to allocate money to
23 qualified venture firms for qualified investments of capital in
24 qualified businesses in accordance with section 21 of
25 P.L. , c. (C.) (pending before the Legislature as this bill),
26 and to offset, in whole or in part, costs incurred by the authority for
27 the implementation and administration of the program.

28

29 5. The authority is authorized to issue State tax credits in the
30 aggregate principal sum of up to \$100,000,000 at the times, in the
31 amounts, and subject to the terms and conditions the authority shall
32 determine to be necessary and appropriate to effectuate the purposes
33 of P.L. , c. (C.) (pending before the Legislature as this bill).

34

35 6. The authority is authorized to sell State tax credits issued in
36 accordance with section 5 of P.L. , c. (C.) (pending before
37 the Legislature as this bill) to one or more persons through a
38 competitive bidding process.

39 The authority shall procure the services of a third party to
40 conduct the competitive bidding process through which State tax
41 credits issued by the authority may be sold, on behalf of the
42 authority, to one or more persons for a commitment of private
43 financial consideration.

44 The third party shall determine the form and manner in which the
45 competitive bidding is conducted, provided, however, that the third
46 party shall provide to potential purchasers notice of the date and
47 time the competitive bidding will be conducted and instructions
48 regarding the submission of commitments of private financial

1 consideration for the purchase of State tax credits not later than 45
2 days prior to the date the bidding is conducted.

3 The third party shall determine the form and manner in which
4 potential purchasers may submit a commitment of private financial
5 consideration for the purchase of State tax credits, provided,
6 however, that each commitment submitted for the purchase of State
7 tax credits shall include the requested amount of State tax credits to
8 be purchased, which requested amount shall be not less than
9 \$250,000, and, provided further, that each commitment submitted
10 for the purchase of State tax credits shall specify the amount of
11 private financial consideration to be committed for the requested
12 amount of State tax credits to be purchased, which amount shall be
13 not less than 75 percent of the amount of State tax credits requested
14 to be purchased.

15 The third party shall require each potential purchaser to make
16 and file an application with the third party prior to the date the
17 potential purchaser submits a commitment of private financial
18 consideration for the purchase of State tax credits, which
19 application shall include the name and address of the potential
20 purchaser and shall demonstrate to the third party the potential
21 purchaser's ability to pay the private financial consideration
22 committed for the purchase of State tax credits.

23 The third party shall provide written notification to each
24 potential purchaser that makes a commitment of private financial
25 consideration for the purchase of State tax credits through the
26 competitive bidding process and shall indicate on the notification if
27 the potential purchaser's commitment is successful and, if so, the
28 amount of State tax credits to be issued to the potential purchaser by
29 the authority.

30 The third party shall transmit to the authority a copy of each
31 written notification provided to a potential purchaser that makes a
32 successful commitment of private financial consideration for the
33 purchase of State tax credits.

34

35 7. The authority shall enter into an agreement with each person
36 who makes a successful commitment of private financial
37 consideration for the purchase of State tax credits in accordance
38 with section 6 of P.L. , c. (C.) (pending before the
39 Legislature as this bill).

40 The agreement shall require the purchaser to pay to the authority
41 the amount of private financial consideration committed for the
42 purchase of State tax credits in three separate but equal
43 installments, which installments shall be due and required to be
44 paid to the authority on or before July 1, 2021, on or before July 1,
45 2022, and on or before July 1, 2023.

46 The agreement shall require the authority to issue to each
47 purchaser a tax credit certificate representing a State tax credit that
48 is equal to that portion of the total amount of State tax credit

1 purchased that the amount of private financial consideration bears
2 to the total committed on or after the date each installment is paid.

3 The agreement shall require the authority to include the
4 following information on each tax credit certificate issued to a
5 purchaser: the amount of State tax credit that may be applied to
6 reduce a State tax liability; the private financial consideration
7 committed for the purchase of State tax credits; the year in which
8 the State tax credit may be applied; the procedures to be used to
9 apply the State tax credit; the procedures to be used to make and
10 file an application for a tax credit transfer certificate; and the
11 penalties that may be imposed by the authority for failure to pay an
12 installment of private financial consideration.

13 The agreement shall prohibit the authority from issuing a tax
14 credit certificate to a purchaser who fails to pay in full an
15 installment of private financial consideration on or before the date
16 the installment is due and required to be paid.

17 The agreement shall require the purchaser to pay a penalty
18 imposed on the purchaser by the authority in accordance with
19 section 8 of P.L. , c. (C.) (pending before the Legislature as
20 this bill).

21 The agreement shall prohibit the purchaser, or an affiliate of the
22 purchaser, from: managing a qualified venture firm; beneficially
23 owning, through rights, options, convertible interests, or otherwise,
24 more than 15 percent of the voting securities or other voting
25 ownership interests of a qualified venture firm; or controlling the
26 direction of investments for a qualified venture firm.

27 The authority shall transmit to the Director of the Division of
28 Taxation a copy of each tax credit certificate issued to a purchaser.

29 The authority shall credit to the program fund the private
30 financial consideration paid to the authority by the purchaser.

31

32 8. The authority shall impose a penalty on a purchaser who
33 fails to pay an installment of private financial consideration in full
34 on or before the date the payment is due and required to be paid to
35 the authority under the terms and conditions of the agreement
36 entered into in accordance with section 7 of P.L. , c. (C.)
37 (pending before the Legislature as this bill) on the date the payment
38 is due.

39 The penalty shall be equal to the difference between the amount
40 of private financial consideration committed to be paid for the
41 purchase of State tax credits issued by the authority and the amount
42 of private financial consideration that remains unpaid on the date
43 the installment is due and required to be paid.

44 A penalty imposed by the authority in accordance with this
45 section shall be due and required to be paid to the Director of the
46 Division of Taxation by the purchaser not later than 30 days after
47 the date the penalty is imposed.

1 The Director of the Division of Taxation shall issue a deficiency
2 assessment for the collection of a penalty or a portion of a penalty
3 that remains unpaid more than 30 days after the date the penalty is
4 imposed.

5 A penalty imposed by the authority in accordance with this
6 section shall be deemed by the Director of the Division of Taxation
7 to be a State tax subject to the State Uniform Tax Procedure Law,
8 R.S.54:48-1 et seq.

9 The amount of any penalty collected by the Director of the
10 Division of Taxation in accordance with this section shall be
11 forwarded to the authority by the Director of the Division of
12 Taxation and shall be credited to the program fund by the authority.

13

14 9. The authority may assign to a person the amount or a portion
15 of the amount of State tax credits for which a commitment of
16 private financial consideration was made but remains unpaid by a
17 purchaser of State tax credits who fails to pay an installment of
18 private financial consideration in full on or before the date the
19 installment is due and required to be paid to the authority under the
20 terms and conditions of the agreement entered into in accordance
21 with section 7 of P.L. , c. (C.) (pending before the
22 Legislature as this bill).

23 The authority shall enter into an agreement with each person who
24 is assigned a defaulting purchaser's State tax credits in accordance
25 with this section.

26 The agreement shall require the assignee to pay the balance of
27 the past due installment of private financial consideration that
28 remains unpaid by a defaulting purchaser not later than 30 days
29 after the date the authority assigns the defaulting purchaser's State
30 tax credits to the assignee, and shall require the authority to issue to
31 the assignee a tax credit certificate representing a State tax credit
32 that is equal to that portion of the total amount of State tax credit
33 purchased that the amount of private financial consideration bears
34 to the total committed on or after the date each past due installment
35 is paid.

36 The agreement shall require the assignee to pay all future
37 installments of private financial consideration on or before the date
38 the installment was due and required to be paid to the authority by
39 the defaulting purchaser, and shall require the authority to issue to
40 the assignee a tax credit certificate representing a State tax credit
41 that is equal to that portion of the total amount of State tax credit
42 purchased that the amount of private financial consideration bears
43 to the total committed on or after the date each installment is paid.

44 The agreement shall require the authority to include the
45 following information on each tax credit certificate issued to an
46 assignee: the amount of State tax credit that may be applied to
47 reduce a State tax liability; the private financial consideration
48 committed for the purchase of State tax credits; the year in which

1 the State tax credit may be applied; the procedures to be used to
2 apply the State tax credit; the procedures to be used to make and
3 file an application for a tax credit transfer certificate; and the
4 penalties that may be imposed by the authority for failure to pay an
5 installment of private financial consideration.

6 The agreement shall prohibit the authority from issuing a tax
7 credit certificate to an assignee who fails to pay in full an
8 installment of private financial consideration on or before the date
9 the installment is due and required to be paid.

10 The agreement shall require an assignee to pay a penalty
11 imposed on the assignee by the authority in accordance with section
12 10 of P.L. , c. (C.) (pending before the Legislature as this
13 bill).

14 The agreement shall prohibit the assignee, or an affiliate of the
15 assignee, from: managing a qualified venture firm; beneficially
16 owning, through rights, options, convertible interests, or otherwise,
17 more than 15 percent of the voting securities or other voting
18 ownership interests of a qualified venture firm; or controlling the
19 direction of investments for a qualified venture firm.

20 The authority shall transmit to the Director of the Division of
21 Taxation a copy of each tax credit certificate issued to an assignee.

22 The authority shall credit to the program fund the private
23 financial consideration paid to the authority as an installment of
24 private financial consideration by an assignee.

25

26 10. The authority shall impose a penalty on an assignee who
27 fails to pay an installment of private financial consideration in full
28 on or before the date the installment is due and required to be paid
29 to the authority under the terms and conditions of the agreement
30 entered into in accordance with section 9 of P.L. , c. (C.)
31 (pending before the Legislature as this bill) on the date the
32 installment is due.

33 The penalty shall be equal to the difference between the amount
34 of private financial consideration committed to be paid for the
35 purchase of State tax credits issued by the authority and the amount
36 of private financial consideration that remains unpaid on the date
37 the installment is due and required to be paid.

38 A penalty imposed by the authority in accordance with this
39 section shall be due and required to be paid to the Director of the
40 Division of Taxation by the assignee not later than 30 days after the
41 date the penalty is imposed.

42 The Director of the Division of Taxation shall issue a deficiency
43 assessment for the collection of a penalty or a portion of a penalty
44 that remains unpaid more than 30 days after the date the penalty is
45 imposed.

46 A penalty imposed by the authority in accordance with this
47 section shall be deemed by the Director of the Division of Taxation

1 to be a State tax subject to the State Uniform Tax Procedure Law,
2 R.S.54:48-1 et seq.

3 The amount of any penalty collected by the Director of the
4 Division of Taxation in accordance with this section shall be
5 forwarded to the authority by the Director of the Division of
6 Taxation and shall be credited to the program fund by the authority.
7

8 11. The authority may assign to a person the amount or a portion
9 of the amount of State tax credits for which a commitment of
10 private financial consideration was made but remains unpaid by an
11 assignee of State tax credits who fails to pay an installment of
12 private financial consideration in full on or before the date the
13 installment is due and required to be paid to the authority under the
14 terms and conditions of the agreement entered into in accordance
15 with section 9 of P.L. , c. (C.) (pending before the
16 Legislature as this bill).

17 The authority shall enter into an agreement with each person who
18 is assigned a defaulting assignee's State tax credits in accordance
19 with this section.

20 The agreement shall require the assignee to pay the balance of
21 the past due installment of private financial consideration that
22 remains unpaid by a defaulting assignee not later than 30 days after
23 the date the authority assigns the defaulting assignee's State tax
24 credits to the subsequent assignee, and shall require the authority to
25 issue to each subsequent assignee a tax credit certificate
26 representing a State tax credit that is equal to that portion of the
27 total amount of State tax credit purchased that the amount of private
28 financial consideration bears to the total committed on or after the
29 date each past due installment is paid.

30 The agreement shall require the assignee to pay all future
31 installments of private financial consideration on or before the date
32 the payment was due and required to be paid to the authority by the
33 defaulting assignee, and shall require the authority to issue to each
34 assignee a tax credit certificate representing a State tax credit that is
35 equal to that portion of the total amount of State tax credit
36 purchased that the amount of private financial consideration bears
37 to the total committed on or after the date each installment is paid.

38 The agreement shall require the authority to include the
39 following information on each tax credit certificate issued to an
40 assignee: the amount of State tax credit that may be applied to
41 reduce a State tax liability; the private financial consideration
42 committed for the purchase of State tax credits; the year in which
43 the State tax credit may be applied; the procedures to be used to
44 apply the State tax credit; the procedures to be used to make and
45 file an application for a tax credit transfer certificate; and the
46 penalties that may be imposed by the authority for failure to pay an
47 installment of private financial consideration.

1 The agreement shall prohibit the authority from issuing a tax
2 credit certificate to an assignee who fails to pay in full an
3 installment of private financial consideration on or before the date
4 the installment is due and required to be paid.

5 The agreement shall require an assignee to pay a penalty
6 imposed on the assignee by the authority in accordance with section
7 12 of P.L. , c. (C.) (pending before the Legislature as this
8 bill).

9 The agreement shall prohibit the assignee, or an affiliate of the
10 assignee, from: managing a qualified venture firm; beneficially
11 owning, through rights, options, convertible interests, or otherwise,
12 more than 15 percent of the voting securities or other voting
13 ownership interests of a qualified venture firm; or controlling the
14 direction of investments for a qualified venture firm.

15 The authority shall transmit to the Director of the Division of
16 Taxation a copy of each tax credit certificate issued to an assignee.

17 The authority shall credit to the program fund the private
18 financial consideration paid to the authority as an installment of
19 private financial consideration by an assignee.

20

21 12. The authority shall impose a penalty on an assignee who
22 fails to pay an installment of private financial consideration in full
23 on or before the date the installment is due and required to be paid
24 to the authority under the terms and conditions of the agreement
25 entered into in accordance with section 11 of P.L. , c. (C.)
26 (pending before the Legislature as this bill) on the date the
27 installment is due.

28 The penalty shall be equal to the difference between the amount
29 of private financial consideration committed to be paid for the
30 purchase of State tax credits issued by the authority and the amount
31 of private financial consideration that remains unpaid on the date
32 the installment is due and required to be paid.

33 A penalty imposed by the authority in accordance with this
34 section shall be due and required to be paid to the Director of the
35 Division of Taxation by the assignee not later than 30 days after the
36 date the penalty is imposed.

37 The Director of the Division of Taxation shall issue a deficiency
38 assessment for the collection of a penalty or a portion of a penalty
39 that remains unpaid more than 30 days after the date the penalty is
40 imposed by the authority.

41 A penalty imposed by the authority in accordance with this
42 section shall be deemed by the Director of the Division of Taxation
43 to be a State tax subject to the State Uniform Tax Procedure Law,
44 R.S.54:48-1 et seq.

45 The amount of any penalty collected by the Director of the
46 Division of Taxation in accordance with this section shall be
47 forwarded to the authority by the Director of the Division of
48 Taxation and shall be credited to the program fund by the authority.

1 13. Notwithstanding the provisions of any other law to the
2 contrary, the authority may waive a penalty imposed on a defaulting
3 purchaser or a defaulting assignee in accordance with section 8, 10,
4 or 12 of P.L. , c. (C.) (pending before the Legislature as this
5 bill) if the assignment of a defaulting purchaser's or a defaulting
6 assignee's State tax credits to another person results in a
7 commitment of private financial consideration in an amount that is
8 equal to the amount of private financial consideration committed to
9 be paid for the purchase of State tax credits by the defaulting
10 purchaser or the defaulting assignee.

11
12 14. A purchaser or an assignee who is issued a tax credit
13 certificate by the authority may first apply a State tax credit for
14 which the tax credit certificate is issued to reduce a State tax
15 liability of the purchaser or the assignee that is due and required to
16 be paid on or after January 1, 2024.

17 The amount of State tax credit that may be applied by a
18 purchaser or an assignee to reduce a State tax liability in any one
19 year shall not exceed 20 percent of the aggregate amount of the
20 State tax credit for which the tax credit certificate is issued.

21 The amount of State tax credit that may be applied by a
22 purchaser or an assignee to reduce a State tax liability in any one
23 year shall not, when taken together with any other tax credit,
24 deduction, or adjustment allowed by law, exceed 50 percent of the
25 tax liability otherwise due and required to be paid for the year for
26 which the State tax credit is applied, and, if the amount of State tax
27 credit that may be applied by a purchaser or an assignee is used to
28 reduce a tax liability imposed in accordance with section 5 of
29 P.L.1945, c.162 (C.54:10A-5), shall not reduce the tax liability
30 otherwise due and required to be paid to an amount less than the
31 statutory minimum provided in subsection (e) of that section.

32 The amount of State tax credit that cannot be applied to reduce a
33 purchaser's or an assignee's State tax liability otherwise due and
34 required to be paid in any year following the year in which the State
35 tax credit is applied may be carried forward, if necessary, to each of
36 the seven years following the year in which the State tax credit is
37 first applied.

38 The order of priority of the application of a State tax credit and
39 of any other tax credit, deduction, or adjustment allowed by law
40 shall be determined in accordance with any terms and conditions
41 that may be prescribed by the Director of the Division of Taxation.

42
43 15. A purchaser or an assignee who is issued a tax credit
44 certificate by the authority may make and file an application with
45 the Director of the Division of Taxation for a tax credit transfer
46 certificate in lieu of the purchaser or the assignee being allowed to
47 apply any amount of the State tax credit for which a tax credit
48 certificate is issued.

1 Upon the review and approval of the Director of the Division of
2 Taxation, the director shall issue to the purchaser or the assignee a
3 tax credit transfer certificate.

4 The tax credit transfer certificate issued to a purchaser or an
5 assignee by the Director of the Division of Taxation may be sold to
6 another person for private financial consideration provided to the
7 purchaser or the assignee by the person purchasing the tax credit
8 transfer certificate.

9 The tax credit transfer certificate issued to a purchaser or an
10 assignee by the Director of the Division of Taxation shall include a
11 statement waiving the purchaser's or the assignee's right to claim
12 the State tax credit that the purchaser or the assignee is electing to
13 sell.

14 The sale of any amount of a tax credit transfer certificate to the
15 person purchasing the tax credit transfer certificate from the
16 purchaser or assignee shall not be made for private financial
17 consideration of less than 75 percent of the transferred State tax
18 credit amount.

19 The tax credit transfer certificate issued to a purchaser or an
20 assignee by the Director of the Division of Taxation shall be subject
21 to any limitations and conditions imposed on the application of
22 State tax credits in accordance with section 14 of
23 P.L. , c. (C.) (pending before the Legislature as this bill) and
24 any other terms and conditions that may be prescribed by the
25 Director of the Division of Taxation.

26

27 16. There is established within the authority the New Jersey
28 Venture Investment and Employment Program Advisory Board.

29 The purpose of the board shall be to identify and to evaluate
30 venture firms that are eligible to be certified as qualified venture
31 firms and to recommend to the authority venture firms that should
32 be certified and receive allocations of money from the program fund
33 for qualified investments of capital in qualified businesses.

34 The board shall be comprised of nine members, of whom three
35 shall be appointed by the Governor, three shall be appointed by the
36 President of the Senate, and three shall be appointed by the Speaker
37 of the General Assembly.

38 Of the members appointed to the board by the Governor: two
39 shall have experience raising capital for a seed-stage to venture-
40 stage company, providing professional services to the venture
41 capital industry, or owning a small business and raising venture
42 capital; and one shall have expertise in higher education research
43 and development and technology transfer projects.

44 Of the members appointed to the board by the President of the
45 Senate: two shall have experience raising capital for a seed-stage to
46 venture-stage company, providing professional services to the
47 venture capital industry, or owning a small business and raising
48 venture capital; and one shall have expertise in meeting the equity

1 capital needs of a seed-stage to venture-stage company that
2 maintains its principal business operations in an economically
3 distressed community.

4 Of the members appointed to the board by the Speaker of the
5 General Assembly: two shall have experience raising capital for a
6 seed-stage to venture-stage company, providing professional
7 services to the venture capital industry, or owning a small business
8 and raising venture capital; and one shall have expertise in
9 community economic development in an economically distressed
10 community.

11 A member of the board shall not be a candidate for or hold
12 elective public office at the time of appointment to or while serving
13 as a board member.

14 A member of the board shall be a resident of this State at the
15 time of appointment to and while serving as a board member.

16 A member of the board shall be a public officer and required to
17 file annually with the State Ethics Commission a financial
18 disclosure statement in accordance with Executive Order No. 2 of
19 2018 while serving as a board member.

20 A member of the board and the immediate family members of a
21 board member shall not have an interest in a purchaser or an
22 assignee during the period commencing one year prior to the date
23 the member is appointed to the board and ending one year
24 following the date the board is dissolved.

25 A member of the board and the immediate family members of a
26 board member shall not have an interest in a qualified business, a
27 venture firm that makes and files an application for consideration in
28 accordance with section 17 of P.L. , c. (C.) (pending before
29 the Legislature as this bill), or a qualified venture firm during the
30 period commencing one year prior to the date the member is
31 appointed to the board and ending one year after the date the
32 board is dissolved.

33 The members appointed to the board by the Governor may be
34 removed from the board by the Governor, for cause, upon notice
35 and opportunity to be heard.

36 The members appointed to the board by the President of the
37 Senate may be removed from the board by the President of the
38 Senate, for cause, upon notice and opportunity to be heard.

39 The members appointed to the board by the Speaker of the
40 General Assembly may be removed from the board by the Speaker
41 of the General Assembly, for cause, upon notice and opportunity to
42 be heard.

43 Vacancies in the membership of the board shall be filled in the
44 same manner as provided for in the original appointment of its
45 members, provided, however, that a vacancy in the membership of
46 the board occurring after the original appointment of its members
47 shall be filled within 30 days of the occurrence thereof.

1 The members of the board shall elect a chairperson and a vice-
2 chairperson from among the members appointed to the board, and
3 may select and appoint a secretary who need not be a board
4 member.

5 The board shall meet at the call of the chairperson and may hold
6 hearings at the times and in the places the chairperson deems
7 necessary and appropriate.

8 The board may request and shall be entitled to receive from the
9 authority any assistance and information the board deems necessary
10 and appropriate.

11 The board shall be entitled to call to its assistance and avail itself
12 of the services of any clerical, technical, and other professional
13 assistants from among the personnel appointed and employed by the
14 authority as the board deems necessary and appropriate.

15 Actions may be taken and motions and resolutions may be
16 adopted by the board at a meeting of the board by an affirmative
17 vote of not fewer than five board members.

18 The members of the board shall serve without compensation, but
19 may be reimbursed for travel and other miscellaneous expenses
20 incurred in the performance of their duties, within the limits of
21 funds appropriated or otherwise made available to the board for its
22 purposes.

23 The board shall be dissolved on the 30th day following the date
24 the board forwards its recommendations for certification to the
25 authority in accordance with section 19 of P.L. , c. (C.)
26 (pending before the Legislature as this bill).

27
28 17. The board shall identify venture firms that are eligible to be
29 certified as qualified venture firms, and to effectuate that purpose it
30 shall be the duty and responsibility of the board to establish an
31 application process and determine the form and manner through
32 which a venture firm may make and file an application for
33 consideration to the board.

34 The application for consideration shall include the name and the
35 address of the venture firm applying to the board.

36 The application for consideration shall include the name,
37 address, and investment and employment experience of each of the
38 principal officers, directors, and senior investment professionals of
39 the venture firm applying to the board and, if the venture firm is a
40 subsidiary of another entity, the name and addresses of the parent
41 entity and the name, address, and investment and employment
42 experience of the parent entity's principal officers, directors, and
43 senior investment professionals.

44 The application for consideration shall include a description of
45 the venture firm's investment strategy or a copy of the business
46 plan used by the venture firm applying to the board.

47 The application for consideration shall include information
48 demonstrating the venture firm's experience in investing in venture-

1 stage businesses, in attracting co-investments and syndicate
2 investments, and in creating jobs through its investments.

3 The application for consideration shall include a statement
4 detailing the venture firm's potential impact on the State's economy
5 if the venture firm is certified as a qualified venture firm and
6 receives allocations of money from the program fund.

7 The application for consideration shall include information
8 demonstrating the venture firm's commitment to the State through
9 the presence of property or employees in this State, through current
10 and previous investments in venture-stage businesses in this State,
11 and through current and previous relationships with other venture
12 firms and academic institutions in this State.

13 The application for consideration shall include information
14 demonstrating the venture firm's commitment to economically
15 distressed communities through the presence of property or
16 employees in economically distressed communities, through current
17 and previous investments in venture-stage businesses in
18 economically distressed communities, and through current and
19 previous relationships with other venture firms and academic
20 institutions located in economically distressed communities.

21 The application for consideration shall include a comprehensive
22 financial statement that covers all of the operations and activities of
23 the venture firm during the three years immediately preceding the
24 year in which the application for consideration is made and filed
25 with the board, and that has been prepared by a certified public
26 accountant who is licensed in accordance with the "Accountancy
27 Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in
28 accordance with the laws of another state.

29

30 18. The board shall evaluate venture firms that are eligible to be
31 certified as qualified venture firms by the authority, and to
32 effectuate that purpose it shall be the duty and responsibility of the
33 board to design and develop an objective standard of assessment
34 against which each application for consideration will be evaluated.

35 The objective standard of assessment designed and developed by
36 the board shall be comprised of individual standards related to the
37 management and operations of a venture firm applying to the board,
38 including: the investment experience of each of the principal
39 officers, directors, and senior investment professionals of a venture
40 firm; a venture firm's reputation in the venture capital community
41 and a venture firm's ability to attract co-investment capital and
42 syndicate investments in qualified businesses; the knowledge,
43 experience, and capabilities of a venture firm in subject areas
44 relevant to venture-stage businesses in this State; and the tenure and
45 turnover rate of the principal officers, directors, and senior
46 investment professionals of a venture firm.

47 The objective standard of assessment shall be comprised of
48 individual standards related to the investment strategy of a venture

1 firm applying to the board, including: a venture firm's record of
2 investing in venture-stage businesses; a venture firm's history of
3 attracting co-investment capital and syndicate investments; the
4 feasibility of a venture firm's investment strategy and the
5 compatibility of that strategy with business opportunities in this
6 State; and a venture firm's history of job creation through its
7 investments.

8 The objective standard of assessment shall be comprised of
9 individual standards related to a venture firm's commitment to
10 making investments that to the fullest extent possible: create
11 employment opportunities in the State, particularly in economically
12 distressed communities; contribute to the long-term growth of the
13 State's economy and the success of qualified businesses;
14 compliment the research and development projects of academic
15 institutions in this State; and foster the development of technologies
16 and industries that present opportunities for the growth of qualified
17 businesses.

18 The objective standard of assessment shall be comprised of
19 individual standards related to a venture firm's commitment to the
20 State, including: a venture firm's presence in this State through the
21 maintenance of offices or through affiliation with local investment
22 firms; the presence of a venture firm's principal officers, directors,
23 and senior investment professionals; a venture firm's experience
24 investing in venture-stage businesses in this State; a venture firm's
25 ability to identify investment opportunities through working
26 relationships with State research and development institutions and
27 State-based businesses; a venture firm's relationship with other
28 venture firms in the region; a venture firm's experience of investing
29 in areas relevant to venture-stage businesses in this State; and a
30 venture firm's commitment to making qualified investments of
31 capital in qualified businesses.

32 The objective standard of assessment shall be comprised of
33 individual standards related to a venture firm's commitment to
34 economically distressed communities, including: a venture firm's
35 presence in economically distressed communities through the
36 establishment and maintenance of local offices or through
37 affiliation with local investment firms; the presence of a venture
38 firm's principal officers, directors, and senior investment
39 professionals in economically distressed communities; a venture
40 firm's experience investing in venture-stage businesses in
41 economically distressed communities; a venture firm's relationship
42 with other venture firms in economically distressed communities; a
43 venture firm's experience of investing in areas relevant to venture-
44 stage businesses in economically distressed communities; and a
45 venture firm's commitment to making qualified investments of
46 capital in qualified businesses that maintain their principal business
47 operations in economically distressed communities.

1 19. The board shall recommend to the authority venture firms
2 that should be certified as a qualified venture firm and receive
3 allocations of money from the program fund for qualified
4 investments of capital in qualified businesses, and to effectuate that
5 purpose it shall be the duty and responsibility of the board to
6 evaluate each complete application for consideration against the
7 objective standard of assessment designed and developed by the
8 board in accordance with section 18 of P.L. , c. (C.)
9 (pending before the Legislature as this bill) and to issue
10 recommendations to the authority based on its evaluation.

11 The board shall determine the form and manner in which the
12 evaluation of each complete application for consideration is
13 conducted, provided, however, that the board shall incorporate a
14 point-based system of evaluation that awards numerical points to
15 each venture firm that makes and files a complete application for
16 consideration based on the ability of that venture firm to meet or
17 achieve the objective standard of assessment designed and
18 developed by the board.

19 The board shall determine the minimum number of points
20 necessary to receive a recommendation for certification from the
21 board and shall issue a recommendation for certification to each
22 venture firm that meets or exceeds the minimum number of points
23 determined to be necessary.

24 The board shall not issue a recommendation for certification to a
25 venture firm that fails to meet or exceed the minimum number of
26 points determined to be necessary for certification.

27 The board shall forward its recommendations for certification to
28 the authority and shall provide written notification to each venture
29 firm that receives a recommendation for certification and each
30 venture firm that fails to receive a recommendation, communicating
31 in detail the grounds for the board's determination to not issue a
32 recommendation.

33

34 20. The authority shall review each recommendation for
35 certification issued by the board in accordance with section 19 of
36 P.L. , c. (C.) (pending before the Legislature as this bill) and
37 shall certify or refuse to certify a venture firm as a qualified venture
38 firm.

39 The authority shall not certify a venture firm as a qualified
40 venture firm if the venture firm has an equity capitalization, net
41 assets, or written commitments of less than \$500,000 in the form of
42 cash or cash equivalents on the date the determination for
43 certification is made.

44 The authority shall not certify a venture firm as a qualified
45 venture firm if the venture firm has fewer than two principals or
46 persons employed to direct the qualified investment of capital who
47 have at least five years of money management experience in the

1 venture capital or private equity sectors on the date the
2 determination for certification is made.

3 The authority shall provide written notification to each venture
4 firm that is certified as a qualified venture firm by the authority and
5 shall provide written notification to each venture firm that the
6 authority refuses to certify as a qualified venture firm
7 communicating in detail the grounds for the authority's refusal.

8
9 21. The authority is authorized to allocate money credited to the
10 program fund to one or more venture firms that are certified as a
11 qualified venture firm by the authority in accordance with section
12 20 of P.L. , c. (C.) (pending before the Legislature as this
13 bill) at the times, in the amounts, and subject to the terms and
14 conditions as the authority shall determine to be necessary and
15 appropriate to effectuate the purposes of P.L. , c. (C.)
16 (pending before the Legislature as this bill).

17
18 22. The authority shall make and enter into an agreement with
19 each qualified venture firm that is allocated money from the
20 program fund in accordance with section 21 of P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 The agreement shall require the qualified venture firm to make
23 qualified investments of capital in one or more qualified businesses
24 from program fund money allocated to the qualified venture firm in
25 accordance with section 23 of P.L. , c. (C.) (pending before
26 the Legislature as this bill).

27 The agreement shall require the qualified venture firm to make
28 administrative distributions from program fund money allocated to
29 the qualified venture firm in accordance with section 24 of
30 P.L. , c. (C.) (pending before the Legislature as this bill).

31 The agreement shall require the qualified venture firm to make
32 sales, liquidations, and other dispositions of qualified investments
33 of capital in qualified businesses in accordance with section 25 of
34 P.L. , c. (C.) (pending before the Legislature as this bill).

35 The agreement shall require the qualified venture firm to make
36 distributions of money derived from the sale, liquidation, and other
37 disposition of qualified investments of capital in qualified
38 businesses and to make distributions of money derived from a
39 return on a qualified investment of capital in qualified businesses in
40 accordance with section 26 of P.L. , c. (C.) (pending before
41 the Legislature as this bill).

42 The agreement shall require the qualified venture firm to cause
43 an audit of its books and accounts to be conducted at least once in
44 each year in accordance with section 27 of P.L. , c. (C.)
45 (pending before the Legislature as this bill).

46 The agreement shall require the qualified venture firm to make
47 and file an annual report with the authority in accordance with

1 section 28 of P.L. , c. (C.) (pending before the Legislature
2 as this bill).

3
4 23. A qualified venture firm that has made and entered into an
5 agreement with the authority in accordance with section 22 of
6 P.L. , c. (C.) (pending before the Legislature as this bill) is
7 authorized to make qualified investments of capital in one or more
8 qualified businesses from program fund money allocated to the
9 qualified venture firm by the authority at the times, in the amounts,
10 and subject to the terms and conditions as the qualified venture firm
11 determines to be necessary and appropriate, provided, however, that
12 a qualified venture firm shall enter into an agreement with each
13 qualified business that receives a qualified investment of capital,
14 which agreement shall, at a minimum, require the qualified business
15 to use the qualified investment of capital to support its business
16 operations in this State, or in the case of a start-up business, to
17 establish and support its business operations in this State, and,
18 provided further, that not less than 80 percent of the program fund
19 money allocated to the qualified venture firm by the authority shall
20 be used by the qualified venture firm for qualified investments of
21 capital in one or more qualified businesses that maintain their
22 principal business operations in an economically distressed
23 community.

24
25 24. A qualified venture firm that has made and entered into an
26 agreement with the authority in accordance with section 22 of
27 P.L. , c. (C.) (pending before the Legislature as this bill) is
28 authorized to make administrative distributions from program fund
29 money allocated to the qualified venture firm by the authority at the
30 times, in the amounts, and subject to the terms and conditions as the
31 qualified venture firm determines to be necessary and appropriate,
32 provided, however, that a qualified venture firm shall not make
33 administrative distributions from program fund money to offset
34 costs or expenses paid or incurred by the qualified venture firm for
35 government relations services, including lobbying, and, provided
36 further, that administrative distributions from program fund money
37 shall be limited to: costs incurred by the qualified venture firm to
38 organize and syndicate the qualified venture firm, which costs shall
39 not exceed \$125,000; amounts expended by the qualified venture
40 firm for professional services, which amounts shall not exceed
41 \$50,000 per year; and annual fees paid by the qualified venture firm
42 for the management of program fund money, which annual fees
43 shall not exceed 2.5 percent of the program fund money allocated to
44 the qualified venture firm by the authority.

45
46 25. A qualified venture firm that has made and entered into an
47 agreement with the authority in accordance with section 22 of
48 P.L. , c. (C.) (pending before the Legislature as this bill) is

1 authorized to sell, liquidate, or dispose of, in whole or in part, its
2 qualified investment of capital in a qualified business at the times,
3 in the amounts, and subject to the terms and conditions as the
4 qualified venture firm determines to be necessary and appropriate,
5 provided, however, that the money or equity received by the
6 qualified venture firm from the sale, liquidation, or disposition of a
7 qualified investment of capital shall be distributed by the qualified
8 venture firm in accordance with section 26 of P.L. , c. (C.)
9 (pending before the Legislature as this bill).

10
11 26. A qualified venture firm that has made and entered into an
12 agreement with the authority in accordance with section 22 of
13 P.L. , c. (C.) (pending before the Legislature as this bill) is
14 authorized to make distributions of money derived from the sale,
15 liquidation, or disposition of a qualified investment of capital in a
16 qualified business and is authorized to make distributions of money
17 derived from a return on a qualified investment of capital in a
18 qualified business if the qualified venture firm first repays to the
19 authority the amount of program fund money allocated to the
20 qualified venture firm by the authority.

21 After a qualified venture firm has repaid the amount of program
22 fund money allocated to the qualified venture firm by the authority,
23 each additional distribution of money derived from the sale,
24 liquidation, or disposition of a qualified investment of capital in a
25 qualified business or derived from a return on a qualified
26 investment of capital in a qualified business shall be made as
27 follows: 80 percent to the authority and 20 percent to the qualified
28 venture firm.

29 The authority shall credit to the program fund payments or
30 repayments made to the authority by a qualified venture firm.

31
32 27. A qualified venture firm that has made and entered into an
33 agreement with the authority in accordance with section 22 of
34 P.L. , c. (C.) (pending before the Legislature as this bill)
35 shall cause an audit of its books and accounts to be conducted by a
36 certified public accountant, who is licensed in accordance with the
37 “Accountancy Act of 1997,” P.L.1997, c.259 (C.45:2B-42 et seq.),
38 or licensed in accordance with the laws of another state, at least
39 once in each year in which the qualified venture firm is in receipt of
40 program fund money or in which the qualified venture firm is
41 responsible for the management of program fund money allocated
42 to the qualified venture firm by the authority.

43 The qualified venture firm shall transmit to the chief executive
44 officer a copy of the audit report and any statements of finding or
45 fact that may be made in connection with an audit.

46
47 28. A qualified venture firm that has made and entered into an
48 agreement with the authority in accordance with section 22

1 of P.L. , c. (C.) (pending before the Legislature as this bill)
2 shall make an annual report regarding its qualified investments of
3 capital in qualified businesses.

4 The report shall include a statement detailing the management
5 and operations of the qualified venture firm during the calendar
6 year immediately preceding the calendar year in which the report is
7 required to be filed, which shall specify the name and address of the
8 qualified venture firm and the name and address of each person
9 employed by the qualified venture firm during the preceding
10 calendar year who is responsible for the management of program
11 fund money allocated to the qualified venture firm by the authority.

12 The report shall include a statement detailing the amount of
13 program fund money allocated to the qualified venture firm by the
14 authority during the calendar year immediately preceding the
15 calendar year in which the report is required to be filed, which shall
16 specify the amount of program fund money invested as a qualified
17 investment of capital in one or more qualified businesses during the
18 preceding calendar year and the amount of program fund money
19 that remains uninvested as a qualified investment of capital on
20 December 31 of the preceding calendar year.

21 The report shall include a statement detailing the performance of
22 each qualified investment of capital in a qualified business during
23 the calendar year immediately preceding the calendar year in which
24 the report is required to be filed, which shall specify the
25 investment's fair market value on the date the qualified investment
26 of capital was made and on December 31 of the preceding calendar
27 year.

28 The report shall include a statement detailing the management
29 and operation of each qualified business that is in receipt of a
30 qualified investment of capital during the calendar year
31 immediately preceding the calendar year in which the report is
32 required to be filed, which shall specify the name of the qualified
33 business, the address at which the qualified business maintains its
34 principal business operations, the address at which the qualified
35 business maintains any other business operations, and the
36 classification of the qualified business according to the industrial
37 sector and the size of the business on the date the qualified
38 investment was made and on December 31 of the preceding
39 calendar year.

40 The report shall include a statement detailing the jobs created or
41 retained as a result of each qualified investment of capital in a
42 qualified business during the calendar year immediately preceding
43 the calendar year in which the report is required to be filed, which
44 shall specify the number of persons employed on a full-time and
45 part-time basis by each qualified business, the average hourly wage
46 or the annual remuneration paid to each person employed on a full-
47 time and part-time basis by each qualified business, and the benefits
48 provided or otherwise made available to each person employed on a

1 full-time and a part-time basis by each qualified business on the
2 date the qualified investment was made and on December 31 of the
3 preceding calendar year.

4 The report shall include a statement detailing each administrative
5 distribution made by the qualified venture firm from program fund
6 money allocated to the qualified venture firm during the calendar
7 year immediately preceding the calendar year in which the report is
8 required to be filed, which shall specify the date of each
9 administrative distribution, the amount of each administrative
10 distribution, and the purpose for which each administrative
11 distribution was made.

12 The report shall include a statement detailing each sale,
13 liquidation, or other disposition of a qualified investment of capital
14 in a qualified business during the calendar year immediately
15 preceding the calendar year in which the report is required to be
16 filed, which shall specify the date of the sale, liquidation, or
17 disposition, the amount of money or the value of equity received
18 from the sale, liquidation, or disposition, and the purpose for which
19 the sale, liquidation, or disposition of its qualified investment of
20 capital in a qualified business was made.

21 The report shall include a statement detailing the distribution of
22 any money derived from the sale, liquidation, or disposition of a
23 qualified investment of capital in a qualified business or derived
24 from a return on a qualified investment of capital in a qualified
25 business that is made by the qualified venture firm during the
26 calendar year immediately preceding the calendar year in which the
27 report is required to be filed, which shall specify the date of the
28 distribution, the amount of the distribution, and the purpose for
29 which the distribution was made.

30 The report shall include a statement prepared by a certified
31 public accountant, who is licensed in accordance with the
32 "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.),
33 or licensed in accordance with the laws of another state, certifying
34 that the accountant has reviewed the report and that the information
35 and representations contained in the report are accurate.

36 The qualified venture firm shall file the report made in
37 accordance with this section with the authority on or before April 1
38 of each year immediately following a year in which the qualified
39 venture firm was in receipt of program fund money or responsible
40 for the management of program fund money allocated to the
41 qualified venture firm by the authority.

42

43 29. The authority shall make an annual report regarding the
44 implementation and administration of the program.

45 The report shall include a statement detailing each purchaser and
46 assignee who is issued a tax credit certificate by the authority
47 during the calendar year immediately preceding the calendar year in
48 which the report is required to be filed, which shall specify the

1 name and address of the purchaser or assignee, the amount of State
2 tax credits issued to the purchaser or assignee by the authority, the
3 amount of private financial consideration paid to the authority by
4 the purchaser or assignee, and the amount of State tax credits for
5 which a tax credit transfer certificate is issued by the Director of the
6 Division of Taxation during the preceding calendar year. The
7 statement shall also specify if a purchaser or assignee failed to pay
8 an installment of private financial consideration in full on or before
9 the date the payment is due and required to be paid, the amount of
10 any penalties imposed on a purchaser or assignee, and the amount
11 of any penalty waived by the authority during the preceding
12 calendar year.

13 The report shall include a statement detailing each qualified
14 venture firm that is allocated program fund money by the authority
15 during the calendar year immediately preceding the calendar year in
16 which the report is required to be filed, which shall specify the
17 name and address of the qualified venture firm, the name and
18 address of each person employed by the qualified venture firm who
19 is responsible for the management of program fund money allocated
20 to the qualified venture firm, the amount of program fund money
21 allocated to the qualified venture firm that is invested in one or
22 more qualified businesses during the preceding calendar year, and
23 the amount of program fund money allocated to the qualified
24 venture firm that remains uninvested on December 31 of the
25 preceding calendar year. The statement shall also specify each
26 administrative distribution, each sale, liquidation, or other
27 disposition of a qualified investment of capital in a qualified
28 business, and each distribution of money derived from the sale,
29 liquidation, or other disposition of a qualified investment of capital
30 in a qualified business or derived from a return on a qualified
31 investment of capital in a qualified business that is made by a
32 qualified venture firm during the preceding calendar year.

33 The report shall include a statement detailing each qualified
34 business that receives or maintains a qualified investment of capital
35 from a qualified venture firm during the calendar year immediately
36 preceding the calendar year in which the report is required to be
37 filed, which shall specify the name of the qualified business, the
38 address at which the qualified business maintains its principal
39 business operations, the address at which the qualified business
40 maintains any other business operations, and the classification of
41 the qualified business according to the industrial sector and the size
42 of the business on the date the qualified investment was made by
43 the qualified venture firm and on December 31 of the preceding
44 calendar year. The statement shall also specify the full-time and
45 part-time jobs created or retained as a result of the qualified
46 investment of capital in the qualified business and provide a
47 summary of the performance of the qualified investment of capital
48 during the preceding calendar year.

1 The report shall include a statement detailing the authority's
2 implementation and administration of the program during the
3 calendar year immediately preceding the calendar year in which the
4 report is required to be filed, which shall specify the costs incurred
5 by the authority to implement and administer the program, the job
6 title of each clerical, technical, and other professional assistant
7 designated from the personnel appointed and employed by the
8 authority to implement and administer the program, and the rules
9 and regulations or practices and procedures adopted or prescribed
10 by the chief executive officer or the Director of the Division of
11 Taxation to implement and administer the program during the
12 preceding calendar year.

13 The report shall include a statement detailing the performance of
14 the program fund during the calendar year immediately preceding
15 the calendar year in which the report is required to be filed, which
16 shall specify each credit made to the program fund, each withdrawal
17 or allocation made from the program fund, and the balance of
18 money remaining in the program fund on December 31 of the
19 preceding calendar year. The statement shall also specify the
20 earnings, if any, received from the investment or reinvestment of
21 money credited to the program fund.

22 The authority shall file the report made in accordance with this
23 section with the Governor and the Legislature, in accordance with
24 section 2 of P.L.1991, c.164 (C.52:14-19.1), on or before July 1
25 next following the effective date of P.L. , c. (C.) (pending
26 before the Legislature as this bill) and on or before July 1 of each
27 year thereafter in which an annual report is made and filed by a
28 qualified venture firm in accordance with section 28 of
29 P.L. , c. (C.) (pending before the Legislature as this bill).

30
31 30. Notwithstanding the provisions of the "Administrative
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
33 contrary, the chief executive officer and the Director of the Division
34 of Taxation may adopt immediately upon filing with the Office of
35 Administrative Law such rules and regulations as the chief
36 executive officer and the director deem necessary and appropriate to
37 effectuate the purposes of P.L. , c. (C.) (pending before the
38 Legislature as this bill), which regulations shall be effective for a
39 period not to exceed 360 days following the effective date of P.L.
40 , c. (C.) (pending before the Legislature as this bill) and may
41 thereafter be amended, adopted, or readopted by the chief executive
42 officer and the director in accordance with P.L.1968, c.410
43 (C.52:14B-1 et seq.).

44
45 31. This act shall take effect on the first day of the ninth month
46 next following the date of enactment.

STATEMENT

This bill, the “New Jersey Venture Investment and Employment Program Act,” establishes the New Jersey Venture Investment and Employment Program under the jurisdiction of the New Jersey Economic Development Authority (authority) and provides for the administration and funding of the program.

The bill provides that the purpose of the program is to facilitate economic development and the creation of jobs, particularly in economically distressed communities within this State. To effectuate those purposes, the bill permits the authority to issue and sell State tax credits, to establish a fund and credit to the fund money generated from the sale of State tax credits, and to allocate money credited to the fund to qualified venture firms for qualified investments of capital in qualified businesses.

Issuance and Sale of Tax Credits. The bill permits the authority to issue State tax credits in the aggregate principal sum of up to \$100,000,000, and to sell those tax credits for commitments of private financial consideration.

The bill requires State tax credits issued by the authority to be sold through a competitive bidding process, and requires the authority to procure the services of a third party to conduct the sale. The bill authorizes the third party to determine the form and manner in which the sale is conducted, and to determine the process by which potential purchasers submit commitments of private financial consideration for the purchase of State tax credits.

Under the bill, each potential purchaser must make a commitment for the purchase of at least \$250,000 in State tax credits. The bill provides that each potential purchaser must make a commitment of private financial consideration that is not less than 75 percent of the requested amount of State tax credits to be purchased.

The bill requires the authority to enter into an agreement with each purchaser of State tax credits. The bill provides that the agreement generally must require the purchaser to pay the private financial consideration committed for the purchase of State tax credits to the authority in three separate but equal installments (July 1, 2021, July 1, 2022, and July 1, 2023), require the authority to issue to each purchaser a tax credit certificate equal to that portion of the total amount of State tax credit purchased that the amount of private financial consideration bears to the total committed, prohibit the authority from issuing a tax credit certificate to a defaulting purchaser, and prohibit the purchaser, and its affiliates, from managing, owning, or controlling the direction of investments of a qualified venture firm.

The bill requires the authority to impose penalties on purchasers who fail to pay installments of private financial consideration on or before the dates the installments are due and required to be paid.

1 The bill provides that the amount of the penalty is equal to the
2 difference between the amount of private financial consideration
3 committed to be paid for the purchase of State tax credits and the
4 amount of private financial consideration that remains unpaid on the
5 date the installment is due and required to be paid, and requires the
6 Director of the Division of Taxation in the Department of the
7 Treasury to collect unpaid penalties.

8 The bill permits the authority to reassign a defaulting purchaser's
9 State tax credits to another person, and permits the authority to
10 reassign a defaulting assignee's State tax credits to another person.
11 The bill requires the authority to enter into an agreement with
12 persons assigned a defaulting purchaser's or assignee's State tax
13 credits that is substantially similar to the agreement initially made
14 and entered into with each purchaser, and requires the authority to
15 impose similar penalties on assignees who subsequently default on
16 a commitment.

17 The bill permits the authority to waive penalties imposed on a
18 purchaser or an assignee. The bill provides that if the assignment of
19 State tax credits to another person results in a commitment of
20 private financial consideration that is equal to the amount
21 committed by a defaulting purchaser or a defaulting assignee, the
22 authority may waive the penalty.

23 The bill permits purchasers and assignees of State tax credits to
24 first apply the credits issued by the authority to reduce State tax
25 liabilities that are due and required to be paid on or after January 1,
26 2024. The bill provides that the tax credit applied by a purchaser or
27 an assignee in any one year is limited to 20 percent of the aggregate
28 amount of the tax credit issued to a purchaser or an assignee, and
29 provides that the amount of the tax credit that may be applied to
30 reduce a State tax liability in any one year shall not exceed 50
31 percent of the tax liability otherwise due and required to be paid.
32 The bill authorizes purchasers and assignees to carry forward
33 unutilized tax credits, and authorizes the Director of the Division of
34 Taxation to prescribe the order in which tax credits issued by the
35 authority may be applied in combination with any other credits
36 allowed by law.

37 The bill permits purchasers and assignees to transfer State tax
38 credits issued by the authority, upon application to and approval by
39 the Director of the Division of Taxation. The bill provides that the
40 subsequent sale or assignment of State tax credits to another person
41 cannot be exchanged for private financial consideration of less than
42 75 percent of the transferred State tax credit amount.

43 Establishment and Maintenance of Special Fund. The bill
44 establishes a special dedicated fund in the Department of the
45 Treasury to be known as the "New Jersey Venture Investment and
46 Employment Program Fund."

47 The bill requires the authority to credit to the fund proceeds from
48 the sale, assignment, or reassignment of State tax credits, penalties

1 paid by defaulting purchasers and assignees, certain distributions
2 from payments or repayments made to the authority by qualified
3 venture firms, and net earnings, if any, derived from the investment
4 or reinvestment of money credited to the fund.

5 The bill authorizes the authority to utilize the fund to make
6 allocations of money to qualified venture firms for qualified
7 investments of capital in qualified businesses, and to offset, in
8 whole or in part, costs incurred by the authority for the
9 implementation and administration of the program.

10 Allocations of Monies Credited to the Program Fund. The bill
11 establishes an advisory board within the authority to be known as
12 the New Jersey Venture Investment and Employment Program
13 Advisory Board. The bill provides that the board is to be comprised
14 of nine members, of whom three are appointed by the Governor,
15 three are appointed by the President of the Senate, and three are
16 appointed by the Speaker of the General Assembly.

17 The bill provides that the purposes of the board is to identify and
18 to evaluate venture firms that are eligible to be certified as qualified
19 venture firms, and to recommend to the authority the venture firms
20 that should be certified and receive allocations of money from the
21 program fund for qualified investments of capital in qualified
22 businesses. The bill requires the board to establish an application
23 process and determine the procedures through which venture firms
24 may make and file applications for consideration, to design and
25 develop an objective standard against which applications will be
26 evaluated, and issue recommendations for certification to the
27 authority based on its evaluation of complete applications.

28 The bill requires the authority to review each recommendation
29 for certification issued by the board and to certify or refuse to
30 certify a venture firm as a qualified venture firm. The bill prohibits
31 the authority from certifying a venture firm as a qualified venture
32 firm if the firm has an equity capitalization, net assets, or written
33 commitments of less than \$500,000 in the form of cash or cash
34 equivalents, or if the firm has fewer than two principals or persons
35 employed to direct the qualified investment of capital who have at
36 least five years of money management experience.

37 The bill permits the authority to make allocations of money
38 credited to the program fund to venture firms that are certified as a
39 qualified venture firm by the authority at the times, in the amounts,
40 and subject to the terms and conditions as may be prescribed by the
41 authority, and requires the authority to make and enter into an
42 agreement with each qualified venture firm that is allocated money
43 from the program fund. The bill provides that the agreement
44 generally must require the qualified venture firm to make qualified
45 investments of capital in qualified businesses, to cause an annual
46 audit of its books and records, and to make and file an annual report
47 with the authority.

1 The bill authorizes each qualified venture firm that has entered
2 into an agreement with the authority to: make qualified investments
3 of capital in qualified businesses from program fund money
4 allocated to the qualified venture firm by the authority; to make
5 administrative distributions from program fund money allocated to
6 the qualified venture firm; to sell, liquidate, or dispose of, in whole
7 or in part, qualified investments of capital in qualified businesses;
8 and to make distributions of money derived from the sale,
9 liquidation, or disposition of a qualified investment of capital in a
10 qualified business and is authorized to make distributions of money
11 derived from a return on a qualified investment of capital in a
12 qualified business if the qualified venture firm first repays to the
13 authority the money allocated to the qualified venture firm by the
14 authority.

15 The bill provides that of the amount of program fund money
16 allocated to each qualified venture firm by the authority not less
17 than 80 percent shall be used by the qualified venture firm for
18 qualified investments of capital in one or more qualified businesses
19 that maintain their principal business operations in an economically
20 distressed community in this State.

21 The bill requires qualified venture firms to make and file an
22 annual report with the authority regarding its qualified investments
23 of capital in qualified businesses.

24 The bill requires the authority to make and file an annual report
25 with the Governor and the Legislature regarding the implementation
26 and administration of the program.

27 The bill authorizes the chief executive officer of the authority
28 and the Director of the Division of Taxation to adopt regulations,
29 and permits the immediate filing of those regulations with the
30 Office of Administrative Law, effective for a period of not more
31 than 360 days following the effective date of the bill.

32 The bill takes effect on the first day of the ninth month next
33 following the date of enactment.