

ASSEMBLY, No. 3642

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

"New Jersey Innovation Evergreen Act"; authorizes sale of tax credits to fund investments in certain New Jersey high-growth businesses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/13/2020)

1 AN ACT concerning the sale of tax credits to fund investment in
2 New Jersey high-growth businesses and supplementing
3 P.L.1974, 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 Innovation Evergreen Act."
10

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

13 "Authority" means the New Jersey Economic Development
14 Authority established pursuant to section 4 of P.L.1974, c.80
15 (C.34:1B-4).

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

18 "Follow-on investment" means a subsequent investment made by
19 an investor who has made a previous investment in a New Jersey
20 high-growth business.

21 "Fund" means the "New Jersey Innovation Evergreen Fund"
22 established pursuant to section 4 of P.L. , c. (C.) (pending
23 before the Legislature as this bill).

24 "High-growth business" means a business that is growing
25 significantly faster than the average growth rate of the economy or
26 is a start-up company that is investing in developing a product or
27 new business model that will allow it to grow significantly faster
28 than the average growth rate of the economy within the next three
29 to five years.

30 "Innovation ecosystem" means those fundraisers, programs, and
31 events that support the establishment and expansion of high-growth
32 businesses in targeted sectors. Examples of fundraisers, programs,
33 and events shall include, but not be limited to: mentoring programs
34 for start-ups; meet-up or networking events; funds for locating a
35 business in a collaborative workspace; programs that provide
36 businesses services; and entrepreneurial education to businesses.

37 "Principal business operations" means a location where at least
38 50 percent of the business's employees who are not primarily
39 engaged in retail sales reside in the State, or a location where at
40 least 50 percent of the business's payroll for employees not
41 primarily engaged in retail sales is paid to individuals living in this
42 State.

43 "Program" means the New Jersey Innovation Evergreen Program
44 established pursuant to section 3 of P.L. , c. (C.) (pending
45 before the Legislature as this bill).

46 "Purchaser" means an entity registered to do business in this
47 State with the Director of the Division of Revenue and Enterprise

1 Services in the Department of the Treasury that purchases an
2 allocation of tax credits under the program.

3 "Qualified business" means a business that, at the time of the
4 first qualified investment in the business and throughout the period
5 of the qualified investment under the program:

6 a. is registered to do business in this State with the Director of
7 the Division of Revenue and Enterprise Services in the Department
8 of the Treasury;

9 b. has its principal business operations located in the State at
10 the time of the qualified investment;

11 c. intends to maintain its principal business operations in the
12 State after receiving a qualified investment under the program;

13 d. is engaged in a targeted industry; and

14 e. employs fewer than 250 persons at the time of the qualified
15 investment.

16 "Qualified investment" means the direct investment of money by
17 the fund in a qualified business for the purchase of shares of stock,
18 with an additional investment in an option or warrant, or a follow-
19 on investment, in the discretion of the authority, all of which is
20 matched by an investment by a qualified venture firm.

21 "Qualified venture firm" means a venture firm that is approved
22 by the authority as a qualified venture firm pursuant to section 10 of
23 P.L. , c. (C.) (pending before the Legislature as this bill).

24 "Special purpose vehicle" means an entity controlled by or under
25 common control with a venture firm that is formed solely for the
26 purpose of investing in a New Jersey high-growth business
27 alongside the venture firm.

28 "Targeted industry" means any industry identified from time to
29 time by the authority that disrupts current technologies or business
30 models, including, initially: advanced transportation and logistics;
31 advanced manufacturing; clean energy; life sciences; information
32 and high technology; aviation; finance and insurance; non-retail
33 food and beverage businesses; and other innovative industries.

34 "Venture firm" means a partnership, corporation, trust, or limited
35 liability company that invests cash in a business during the early or
36 expansion stages of a business in exchange for an equity stake in
37 the business in which the investment is made. Venture firm may
38 include a venture capital fund, a family office fund, and a corporate
39 investor fund, provided that a professional manager administers the
40 venture firm.

41

42 3. The New Jersey Innovation Evergreen Program is hereby
43 established as a program under the jurisdiction of the New Jersey
44 Economic Development Authority. The purpose of the program
45 shall be to invest in innovation as a catalyst for economic growth
46 and to advance the competitiveness of the State's businesses in the
47 global economy. Beginning on the effective date of P.L. , c.
48 (C.) (pending before the Legislature as this bill), the authority

1 shall auction up to \$300,000,000 in tax credits to implement this
2 purpose; provided, however, the authority shall not auction more
3 than \$60,000,000 in tax credits under the program in any calendar
4 year. The authority shall deposit the proceeds of the auction in the
5 New Jersey Innovation Evergreen Fund, established pursuant to
6 section 4 of P.L. , c. (C.) (pending before the Legislature
7 as this bill), as provided for in section 6 of P.L. , c. (C.)
8 (pending before the Legislature as this bill). The authority shall not
9 undertake an auction if, exclusive of reserves, including the reserve
10 set aside for follow-on investments pursuant to subsection d. of
11 section 4 of P.L. , c. (C.) (pending before the Legislature
12 as this bill), more than \$15,000,000 is available to allocate to
13 qualified venture firms.
14

15 4. a. The authority shall establish and maintain a dedicated
16 fund to be known as the "New Jersey Innovation Evergreen Fund."
17 The authority shall use the money in the fund only to carry out the
18 purposes enumerated in subsections b. and c. of this section. The
19 authority shall credit the fund with: money paid by purchasers of
20 tax credits authorized pursuant to section 3 of P.L. , c. (C.)
21 (pending before the Legislature as this bill); distributions from
22 payments or repayments received by the authority pursuant to
23 subsection c. of section 12 of P.L. , c. (C.) (pending before
24 the Legislature as this bill); earnings received, if any, from the
25 investment or reinvestment of money credited to the fund; and any
26 money which, from time to time, may otherwise become available
27 for the purposes of the fund.

28 b. The authority shall use the fund to allocate money to
29 qualified venture firms to make qualified investments of capital in
30 qualified businesses through a special purpose vehicle pursuant to
31 section 11 of P.L. , c. (C.) (pending before the Legislature
32 as this bill) and to pay the administrative, legal, and auditing
33 expenses of the authority incurred in the administration of the
34 program. The authority shall use 75 basis points of the total funds
35 deposited in the fund, calculated on an annual basis, for programs
36 administered by the authority that create an innovation ecosystem
37 that supports and promotes high-growth businesses in the State.

38 c. The authority shall deposit into the fund dividends and
39 returns on investments paid to the authority by or on behalf of a
40 qualified business. Upon the fund holding total deposits of
41 \$500,000,000, and thereafter upon a qualified investment in a
42 qualified business achieving a return on investment of twice the
43 original and follow-on investment, 50 percent of any return on
44 investment in excess of twice the original and follow-on investment
45 shall be paid to the General Fund of the State.

46 d. The authority shall account for and calculate reserves for
47 follow-on investments, programs that support the State's innovation
48 ecosystem, and administrative, legal, and auditing expenses. The

1 authority shall not include these reserves when calculating the
2 amount in the fund available for new qualified investments.

3

4 5. a. The authority shall sell the tax credits authorized
5 pursuant to section 3 of P.L. , c. (C.) (pending before the
6 Legislature as this bill) to purchasers through a competitive auction
7 process.

8 b. The authority shall determine the form and manner in which
9 potential purchasers may bid for tax credits available under the
10 program. To be allowed a tax credit under the program, a potential
11 purchaser shall:

12 (1) specify the requested amount of tax credits, which shall not
13 be less than \$1,000,000;

14 (2) specify the amount the potential purchaser will pay in
15 exchange for the requested amount of tax credits, which shall not be
16 less than 85 percent of the requested dollar amount of tax credits;

17 (3) commit to serve on the New Jersey Innovation Evergreen
18 Advisory Board, established pursuant to section 13 of P.L. , c.
19 (C.) (pending before the Legislature as this bill), and to
20 otherwise provide mentorship and networking opportunities to
21 qualified businesses that receive funding under the program; and

22 (4) provide any other information that the chief executive
23 officer of the authority determines is necessary.

24 c. Prior to an auction, the authority shall establish and disclose
25 to bidders the weighted criteria the authority will utilize, which the
26 authority shall base on the price offered to purchase the tax credits
27 and the quality of the mentorship and networking opportunities and
28 other support of the State's innovation ecosystem offered by a
29 purchaser in its bid. The authority may pro rate the amount of tax
30 credits allocated to each purchaser. The authority shall provide
31 written notice to a potential purchaser indicating whether the
32 authority has approved the potential purchaser as a purchaser of tax
33 credits and, if so, the amount of tax credits approved.

34 d. Except as provided in section 3 of P.L. , c. (C.)
35 (pending before the Legislature as this bill), the authority shall hold
36 one competitive auction per calendar year.

37 e. Notwithstanding the provisions of this section to the
38 contrary, the authority may contract with an independent third party
39 to conduct the competitive bidding process through which State tax
40 credits issued by the authority may be sold.

41

42 6. a. A purchaser that submits a successful bid for the
43 purchase of tax credits pursuant to section 5 of
44 P.L. , c. (C.) (pending before the Legislature as this bill)
45 shall enter into a contract with the authority that includes payment
46 information and the commitments made by the purchaser in its
47 auction bid. A purchaser that submits a successful bid for the

1 purchase of tax credits pursuant to section 5 of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 shall pay by wire transfer, at a period of time specified in the
4 contract, the amount specified in its auction bid to the authority for
5 deposit into the fund. Upon receipt thereof, the chief executive
6 officer of the authority shall notify the director to issue tax credits
7 in the amount approved. Failure by the purchaser to pay the amount
8 agreed upon at the period of time specified in the contract may
9 disqualify the purchaser from purchasing the tax credits and the
10 authority may reassign the right to purchase the credits to another
11 bidder. Failure by the purchaser to adhere to the commitments
12 made in its auction bid may allow the authority to disqualify the
13 purchaser from participating in future auctions and may result in the
14 authority recapturing a portion of the tax credits.

15 b. The authority shall credit to the fund any money paid to the
16 authority by a purchaser for an allocation of tax credits under the
17 program.

18 c. The authority shall ensure that no undue financial advantage
19 shall benefit a purchaser that also is: managing a qualified venture
20 firm; beneficially owning, through rights, options, convertible
21 interests, or otherwise, more than 15 percent of the voting securities
22 or other voting ownership interests of a qualified venture firm; or
23 controlling the direction of investments for a qualified venture firm.
24 The chief executive officer of the authority shall annually certify
25 that the authority is monitoring the activities of the purchasers and
26 has taken appropriate steps to ensure no undue financial advantage
27 benefits to the purchasers.

28
29 7. a. A purchaser shall apply the tax credit allowed pursuant
30 to P.L. , c. (C.) (pending before the Legislature as this bill)
31 against the State tax liability of the purchaser for the current
32 privilege period or reporting period as of the date of the credit's
33 approval. A purchaser may carry forward an unused credit resulting
34 from the limitations of subsection b. of this section, if necessary, for
35 use in the seven privilege periods or reporting periods next
36 following the privilege period or reporting period for which the
37 credit is allowed.

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

1 8. a. A purchaser may apply to the director and the chief
2 executive officer of the authority for a tax credit transfer certificate,
3 in the privilege period or reporting period during which the director
4 allows the purchaser a tax credit pursuant to section 7 of
5 P.L. , c. (C.) (pending before the Legislature as this bill),
6 in lieu of the purchaser being allowed to apply any amount of the
7 tax credit against the purchaser's State tax liability. The tax credit
8 transfer certificate, upon receipt thereof by the purchaser from the
9 director and the chief executive officer of the authority, may be sold
10 or assigned, in full or in part, to another person that may have a tax
11 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
12 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
13 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
14 buyer or assignee of a tax credit transfer certificate pursuant to this
15 section shall apply the transferred tax credit against the same tax for
16 which the purchaser was approved for a tax credit under the
17 program. The tax credit transfer certificate provided to the
18 purchaser shall include a statement waiving the purchaser's right to
19 claim the credit that the purchaser has elected to sell or assign.

20 b. The purchaser shall not sell or assign a tax credit transfer
21 certificate allowed under this section for consideration received by
22 the purchaser of less than 85 percent of the transferred tax credit
23 amount before considering any further discounting to present value
24 which shall be permitted. The tax credit transfer certificate issued
25 to a purchaser by the director shall be subject to any limitations and
26 conditions imposed on the application of State tax credits pursuant
27 to section 7 of P.L. , c. (C.) (pending before the Legislature
28 as this bill) and any other terms and conditions that the director may
29 prescribe.

30 c. A buyer or assignee of a tax credit transfer certificate
31 pursuant to this section shall not make any subsequent transfers,
32 assignments, or sales of the tax credit transfer certificate.

33 d. Ten percent of the consideration received by a purchaser
34 from the sale or assignment of a tax credit transfer certificate
35 pursuant to this section shall be remitted to the director and
36 deposited in the General Fund of the State.

37 e. The authority shall publish on its Internet website the
38 following information concerning each tax credit transfer certificate
39 approved by the authority and the director pursuant to this section:

- 40 (1) the name of the transferor;
41 (2) the name of the transferee;
42 (3) the value of the tax credit transfer certificate;
43 (4) the amount of State tax against which the transferee may
44 apply the tax credit; and
45 (5) the consideration received by the transferor.

46
47 9. a. The authority shall establish an application process and
48 determine the form and manner through which a venture firm may

1 make and file an application for certification as a qualified venture
2 firm. The authority may accept applications on a rolling basis or on
3 a date set by the authority.

4 b. In evaluating applicants for certification as a qualified
5 venture firm, the authority shall establish weighted criteria by
6 which the authority will evaluate all venture firms applying in the
7 same calendar year and shall establish a minimum acceptable score.
8 The criteria may include, but shall not be limited to:

9 (1) the management structure of the applicant, including:

10 (a) the quality of the leadership, including the willingness to
11 work with the authority to support targeted industries and
12 innovation ecosystem in the State;

13 (b) the willingness to locate to the State;

14 (c) the investment experience of the principals with qualified
15 businesses;

16 (d) the knowledge, experience, and capabilities of the applicant
17 in subject areas relevant to high-growth businesses in the State;

18 (e) the tenure and turnover history of principals and senior
19 investment professionals of the applicant;

20 (f) whether the State's investment with the applicant under this
21 program would exceed 15 percent of the total invested in the
22 applicant by all investors, including investments in any special
23 purpose vehicles;

24 (g) the fund's stage of fundraising; and

25 (h) whether fees, expenses, and the remuneration of the general
26 partner or fund manager are similar to those of peer funds; and

27 (2) the applicant's investment strategy, including:

28 (a) the applicant's track record of investing in high-growth
29 businesses;

30 (b) whether the investment strategy of the fund is focused on
31 high-growth businesses, including the percentage of the fund
32 identified for investment in New Jersey or surrounding geographic
33 areas; and

34 (c) the performance history of the general partner or fund
35 manager based on a review of investment returns on individual
36 funds on an absolute basis and relative to peers.

37

38 10. a. The authority shall review the criteria for certification
39 established pursuant to section 9 of P.L. , c. (C.) (pending
40 before the Legislature as this bill) and shall certify or refuse to
41 certify a venture firm as a qualified venture firm.

42 b. The authority shall not certify a venture firm as a qualified
43 venture firm if the venture firm has:

44 (1) an equity capitalization, net assets, or written commitments
45 of less than \$10,000,000 in the form of cash or cash equivalents on
46 the date the determination for certification is made; or

47 (2) fewer than two principals or persons employed to direct the
48 qualified investment of capital who have at least five years of

1 money management experience in the venture capital or private
2 equity sectors on the date the determination for certification is
3 made.

4 The authority may adopt, pursuant to the provisions of the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.), rules setting forth additional disqualifying criteria and
7 adjusting the minimum equity capitalization, net assets, or written
8 commitments of a qualified venture firm.

9 c. The authority shall provide written notification to each
10 venture firm that is certified as a qualified venture firm by the
11 authority and shall provide written notification to each venture firm
12 that the authority refuses to certify as a qualified venture firm,
13 communicating in detail the grounds for the authority's refusal.
14 The authority shall review each qualified venture firm annually for
15 the disqualifying criteria set forth in subsection b. of this section.
16 The authority may decertify a qualified venture firm at any time
17 pursuant to the disqualifying criteria set forth in subsection b. of
18 this section. Decertification shall not affect any previously made
19 qualified investment or the fund's commitment to make a follow-on
20 investment in a qualified business.

21
22 11. a. The authority is authorized to allocate money credited to
23 the fund to one or more qualified venture firms for qualified
24 investments at the times, in the amounts, and subject to the terms
25 and conditions that the authority shall determine to be necessary
26 and appropriate to effectuate the purposes of P.L. , c. (C.)
27 (pending before the Legislature as this bill), provided that no more
28 than two qualified investments shall be made with each qualified
29 venture firm in a calendar year and each qualified investment shall
30 not exceed \$5,000,000 in initial investment, exclusive of follow-on
31 investments. The fund shall not invest in a qualified venture firm if
32 the authority determines that an undue financial advantage would
33 benefit a purchaser if the investment occurs, or if the investment
34 would be inconsistent with the investment policies and goals of the
35 State.

36 b. The authority shall make and enter into an agreement with
37 each qualified venture firm. The agreement shall include, but not
38 be limited to, provisions that require the qualified venture firm to:

39 (1) make investments in qualified business that equal or exceed
40 the amount of capital received by the qualified venture firm from
41 the fund under the program;

42 (2) cause an audit of the qualified venture firm's books and
43 accounts, which a certified public accountant, who is licensed in
44 accordance with the "Accountancy Act of 1997," P.L.1997, c.259
45 (C.45:2B-42 et seq.), or licensed in accordance with the laws of
46 another state, shall conduct at least once each year in which the
47 qualified venture firm is in receipt of fund money or in which the

1 qualified venture firm is responsible for the management of fund
2 money allocated to the qualified venture firm by the authority;

3 (3) enter into an agreement with each qualified business that
4 receives a qualified investment, which shall, at a minimum, require
5 the qualified business to use the qualified investment of capital to
6 support its business operations in this State and to provide the
7 information required pursuant to section 12 of P.L. , c. (C.)
8 (pending before the Legislature as this bill);

9 (4) upon the identification of a qualified investment, create a
10 special purpose vehicle for the qualified investment of the fund;

11 (5) upon the identification of a qualified investment, indicate the
12 amount of follow-on investment the authority should reserve, and
13 periodically provide updates concerning this amount;

14 (6) publicize its participation in the fund; and

15 (7) consent to the authority publicly disclosing the list of
16 qualified investment firms participating in the program.

17 c. A qualified venture firm that has made and entered into an
18 agreement with the authority pursuant to subsection b. of this
19 section is authorized to make qualified investments of capital in one
20 or more qualified businesses from fund money allocated to the
21 qualified venture firm by the authority at the times, in the amounts,
22 and subject to the terms and conditions that the qualified venture
23 firm determines to be necessary and appropriate. The authority may
24 limit the amount of allocated fund money that a qualified venture
25 firm invests in a qualified business based upon the size of
26 investments the qualified business has received, the source of the
27 investments, and the industry in which the qualified business is
28 engaged.

29

30 12. a. A qualified venture firm shall annually report to the
31 authority:

32 (1) the amount of the qualified investment, if any, invested at
33 the end of the preceding calendar year;

34 (2) all qualified investments made during the preceding calendar
35 year, including the number and wages of employees of each
36 qualified business at the time the venture firm made the qualified
37 investment and as of December 31 of that year;

38 (3) for any qualified investment in which the qualified venture
39 firm no longer has a position as of the end of the calendar year, the
40 number of employees of the business as of the date the investment
41 was terminated;

42 (4) its financial information, audited by a certified public
43 accountant, of the qualified venture firm and the special purpose
44 vehicle that include a consolidated summary of the performance of
45 the qualified venture firm. Any information about the performance
46 of an individual business, including the qualified business, shall be
47 considered confidential and not subject to P.L.1963, c.73 (C.47:1A-
48 1 et seq.), known commonly as the open public records act; and

1 (5) any other information the authority requires to ascertain the
2 impact of the program on the economy of the State.

3 b. With respect to the information required pursuant to
4 paragraphs (1) through (4) of subsection a. of this section, the report
5 shall include a statement prepared by a certified public accountant,
6 who is licensed in accordance with the "Accountancy Act of 1997,"
7 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance
8 with the laws of another state, certifying that the accountant has
9 reviewed the report and that the information and representations
10 contained in the report are accurate.

11 c. Not later than 60 days after the sale or other disposition of a
12 qualified investment, the qualified venture firm shall provide to the
13 authority a report on the amount of the stock sold or disposed of
14 and the consideration received for the sale or disposition. The
15 report shall detail the cumulative effect of sequentially introduced
16 positive or negative values and include the gross income and details
17 of any offsetting fees that reduce the net distribution. Any dividend
18 or proceeds received by the authority for the sale or other
19 disposition of a qualified investment shall be deposited into the
20 fund and used in accordance with section 4 of P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22
23 13. The New Jersey Innovation Evergreen Advisory Board is
24 hereby established in, but not of, the authority for the purposes of
25 providing guidance and networking opportunities to qualified
26 businesses. The members shall serve in a voluntary capacity, to be
27 appointed through a process to be determined by the chief executive
28 officer of the authority from among purchasers and other strategic
29 partners identified by the chief executive officer, to support the
30 State's innovation ecosystem. The terms of the voluntary members
31 appointed, after the initial appointments, shall be one year, and each
32 member may be reappointed.

33
34 14. Beginning the year next following the year in which
35 P.L. , c. (C.) (pending before the Legislature as this bill)
36 takes effect and every two years thereafter, the authority shall
37 prepare a report on the implementation of the program, and submit
38 the report to the Governor and, pursuant to section 2 of
39 P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial
40 report required under this section shall include:

41 a. the names and locations of qualified businesses receiving
42 capital;

43 b. the amount of each qualified investment;

44 c. a report by a certified public accountant of the consolidated
45 performance of the fund;

46 d. the cumulative amount of capital committed by purchasers;

1 e. the rate and amount of fees charged by each qualified
2 venture firm, including performance-based earnings and carried
3 interest;

4 f. the classification of each qualified business, according to the
5 industrial sector and the size of the qualified business;

6 g. the State's return on investment;

7 h. the total number of jobs created in the State by the qualified
8 business after the qualified investment;

9 i. the average wages paid for the jobs; and

10 j. any other metrics the authority determines are relevant based
11 upon national best practices.

12
13 15. Notwithstanding the provisions of the "Administrative
14 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
15 contrary, the chief executive officer of the authority may adopt
16 immediately upon filing with the Office of Administrative Law,
17 rules and regulations that the chief executive officer deems
18 necessary to implement the provisions of P.L. , c. (C.)
19 (pending before the Legislature as this bill), which shall be effective
20 for a period not to exceed 180 days from the date of the filing. The
21 chief executive officer shall thereafter amend, adopt, or readopt the
22 rules and regulations in accordance with the requirements of
23 P.L.1968, c.410 (C.52:14B-1 et seq.).

24
25 16. This act shall take effect immediately.

26 27 28 STATEMENT

29
30 This bill establishes the New Jersey Innovation Evergreen
31 Program (program) and New Jersey Innovation Evergreen Fund
32 (fund) under the jurisdiction of the New Jersey Economic
33 Development Authority (EDA). The purpose of the program and
34 fund is to invest in qualified high-growth businesses as a catalyst
35 for economic growth and to advance the competitiveness of the
36 State's businesses in the global economy.

37 The bill requires the EDA to auction State tax credits, to
38 establish a dedicated fund, and to credit that fund with money
39 generated from the sale of State tax credits. The EDA is to allocate
40 money credited to the fund to qualified venture firms for
41 investments of capital in qualified businesses. The bill requires the
42 EDA to issue State tax credits in the aggregate principal sum of up
43 to \$300 million and to auction those tax credits for commitments of
44 private capital. The bill prohibits the EDA from: 1) selling more
45 than \$60 million in tax credits in any calendar year; and 2)
46 undertaking an auction if, exclusive of reserves, including the
47 reserve set aside for follow-on investments, more than \$15 million
48 is available to allocate to qualified venture firms.

1 The bill requires the EDA to sell the State tax credits through a
2 competitive bidding process. Under the bill, each potential
3 purchaser of tax credits must make a commitment for the purchase
4 of at least \$1 million in State tax credits. The bill further provides
5 that each potential purchaser must make a commitment of private
6 capital that is not less than 85 percent of the requested amount of
7 State tax credits to be purchased.

8 The bill establishes a New Jersey Innovation Evergreen Advisory
9 Board (board). The purpose of the board is to provide guidance and
10 networking opportunities to businesses receiving an investment
11 under the program. As a condition of receiving a tax credit, a
12 purchaser is to serve on the advisory board and otherwise provide
13 guidance and networking opportunities to businesses receiving an
14 investment under the program.

15 The bill permits purchasers of tax credits to transfer State tax
16 credits issued by the EDA, upon application to and approval by the
17 Director of the Division of Taxation. The bill provides that the
18 subsequent sale or assignment of State tax credits to another person
19 cannot be exchanged for private financial consideration of less than
20 85 percent of the transferred State tax credit amount.

21 The bill requires the EDA to credit to the fund proceeds from the
22 sale of State tax credits, certain distributions from payments or
23 repayments made to the EDA by qualified venture firms, and net
24 earnings, if any, derived from the investment or reinvestment of
25 money credited to the fund.

26 The bill requires that the EDA identify and evaluate venture
27 firms and certify them as venture firms qualified to make
28 investments on behalf of the fund. The bill prohibits the EDA from
29 certifying a venture firm as a qualified venture firm if the firm has
30 an equity capitalization, net assets, or written commitments of less
31 than \$10 million in the form of cash or cash equivalents, or if the
32 firm has fewer than two principals or persons employed to direct the
33 qualified investment of capital who have at least five years of
34 money management experience.

35 Upon certification as a qualified venture firm, the EDA may
36 allocate money from the fund to the qualified venture firm to make
37 qualified investments of capital in qualified businesses. The bill
38 requires the EDA to make and enter into an agreement with each
39 qualified venture firm that is allocated money from the fund. The
40 bill provides that the agreement generally must require the qualified
41 venture firm to match the capital contributed by the EDA from the
42 fund, to make qualified investments of capital in qualified
43 businesses, to cause an annual audit of its books and records, and to
44 make and file annual reports with the EDA.

45 The bill requires the authority to prepare and submit biennial
46 reports on the implementation of the program.