

New Jersey to Create Venture Capital Fund to Supercharge Investment into Early-Stage and Emerging Growth Companies in the State

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The New Jersey Legislature has passed the New Jersey Innovation Evergreen Act, and New Jersey Governor Phil Murphy is expected to sign it into law in the coming days/weeks. Pursuant to the Act, the New Jersey Economic Development Authority (the NJEDA) will create a fund, called the New Jersey Innovation Evergreen Fund (the Fund), to invest in early-stage and emerging growth companies in New Jersey. The Fund is expected to be capitalized with approximately \$250 million over the next five years through competitive auctions of state tax credits. All Fund investments into New Jersey companies must be matched by qualified venture firms, yielding a total of at least \$500 million in venture capital investment in early-stage and emerging growth companies in New Jersey over the next several years.

How It Works

The NJEDA will invest in qualified venture firms for the purposes of investing in qualified businesses in New Jersey. A qualified venture firm generally includes any entity that invests cash in an early-stage or emerging growth company in exchange for an equity stake in the business. The NJEDA will establish criteria by which to evaluate and qualify venture firms based on management structure; investment strategy; location of the venture firm and its proposed investment portfolio companies; and assets under management.

NJEDA will invest alongside a qualified venture firm in an amount no greater than the amount of capital the qualified venture firm is investing into the qualified business. The Fund may invest no more than \$5 million, with certain exceptions, in initial investment (not including reserves for follow-on) in a qualified venture firm for purposes of investing in a qualified company. The Fund may not make more than two investments in the same qualified venture firm within a calendar year.

To be a qualified business, a company must be registered to do business in New Jersey; have its principal business operations located in New Jersey and intend to maintain its principal business operations in New Jersey after receiving the investment; be in a targeted industry (broadly defined to include a variety of industries and innovative business models); and employ fewer than 250

people at the time of the investment. Notably, principal business operations means at least 50 percent of the business's employees reside in the State or at least 50 percent of the business's payroll is paid to individuals living in the State.

What It Means

The Fund represents a game-changing opportunity for early-stage and emerging growth companies in New Jersey (as well as their investors) by significantly expanding access to venture capital, ecosystem building activities, and diversity, equity and inclusion initiatives. Because the Fund is intended to be an "evergreen" vehicle, the returns generated from the initial investments by the Fund will be used to support early-stage and emerging growth companies in New Jersey for years to come.

By driving a total of at least \$500 million of venture capital investment into early-stage and emerging growth companies in New Jersey over the next several years, the Fund has the potential to reestablish New Jersey as an epicenter of innovation. Companies will have expanded access to capital to grow and scale. In addition to a capital infusion of at least \$500 million into the State, the enhanced innovation ecosystem, which will be supported by the required participation of the tax credit recipients seeding the Fund (which are expected to include some of the largest corporations and entities in New Jersey), will provide early-stage and emerging growth companies in New Jersey with unparalleled mentoring, networking and collaborative engagement opportunities.

In addition, the Fund will have a goal of investing 25 percent of its proceeds in qualified venture firms that will invest in companies located in Opportunity Zone census tracts in New Jersey. Moreover, within one year, the NJEDA must undertake a disparity study of investment by venture capital firms in women-owned and minority-owned businesses in New Jersey. Based on the findings of this study, the NJEDA is empowered to set aside certain Fund money for investment in women-owned and minority-owned businesses. Such an initiative presents an opportunity for New Jersey to ensure historically overlooked founders receive the opportunity to grow and scale their businesses and to build a truly diverse innovation ecosystem in New Jersey.

We are excited to see New Jersey's bold initiative become law. As a law firm with roots in New Jersey dating back 175 years and a commitment to innovation, technology and entrepreneurship from our representation of Thomas Edison to our current position as a regional, national and global leading law firm for venture capital and emerging growth companies, we are optimistic that the New Jersey Innovation Evergreen Act will produce extraordinary results.

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