SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2707

STATE OF NEW JERSEY

DATED: DECEMBER 19, 2022

The Senate Commerce Committee reports favorably Senate Bill No. 2707.

This bill makes several changes to the research tax credit provided under the corporation business tax, including increasing the qualified research expenses credit for taxpayers engaged in targeted industries, increasing the basic research payments tax credit for all taxpayers, and allowing the total credit to be refundable.

Under current law, a corporation business taxpayer may receive a research tax credit in an amount equal to (1) 10 percent of the excess of qualified research expenses for the privilege period over the base amount; and (2) 10 percent of the basic research payments for the privilege period.

This bill increases the qualified research expenses tax credit from 10 percent to 15 percent for taxpayers who are primarily engaged in business in one or more targeted industries. For the purpose of calculating the qualified research expenses tax credit, the base amount is determined based on a fixed percentage of the taxpayer's average annual gross receipts. Qualified research expenses are also defined to include the sum of in-house research expenses and contract research expenses that are paid or incurred during the privilege period.

Under the bill, the New Jersey Economic Development Authority would be responsible for periodically identifying a list of targeted industries. However, the bill requires the initial list of targeted industries to include advanced transportation and logistics, manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

Additionally, the bill increases the basic research payments tax credit from 10 percent to 15 percent for all taxpayers. State regulations define basic research payments to include cash payments provided by a corporation to qualified organizations (e.g., institutions of higher education, certain scientific research

organizations, and certain scientific tax-exempt organization) for the performance of basic research. Under state regulations, the credit is calculated based on the provisions of section 41 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992.

The bill also allows the research tax credit to be refundable for privilege periods beginning on or after the date of enactment. Under current law, the research tax credit cannot be refunded, and taxpayers are permitted to carry forward the unused portion of the credit for seven privilege periods. Under the bill, a taxpayer may instead elect to receive the unused portion of the credit as a tax refund, or carry forward the unused credit. When a tax credit is refundable, the State is required to provide the taxpayer with a cash payment in the amount of the unused credit, which represents an overpayment of tax.