

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13073.5 of the Government Code is amended to read:

13073.5. The Legislature finds and declares that: (1) population size and distribution patterns in California exert a major influence on the physical, social, and economic structure of the state and on the quality of the environment generally; (2) sound and current data and methods to estimate population trends are necessary to enable state, regional, and local agencies to plan and function properly; and (3) there is a critical need for a proper study of the implications of present and future population trends in order that state, regional, and local agencies might develop or reexamine policies and actions based thereon.

The Population Research Unit shall:

- (a) Develop basic demographic data and statistical compilations, which may include a current population survey and a mid-decade census.
- (b) Design and test methods of research and data collection.
- (c) Conduct local population estimates as required by law.
- (d) Validate all official census data and population statistics.
- (e) Analyze and prepare projections of enrollments in public schools, colleges, and universities.
- (f) Analyze governmental records to establish characteristics of migration and distribution.
- (g) Publish annual estimates of the population of the state and its composition.
- (h) Prepare short- and long-range projections of population and its composition.
- (i) Provide advisory services to state agencies and other levels of government.

(j) Evaluate and recommend data requirements for determining population and population growth.

(k) Analyze the demographic features of the causes and consequences of patterns of natural increase or decrease, migration, and population concentration within the state.

(l) Assess the need for population data required for determining the allocation of federal, state, and other subvention revenues.

(m) Request and obtain from any department, division, commission, or other agency of the state ~~such~~ all assistance and information ~~as will~~ to enable the unit to effectively carry out the provisions of this section.

(n) Cooperate with the Office of Planning and Research with respect to functions involving mutual areas of concern relating to demography and state planning.

(o) Enter into agreements to carry out the purposes of this section, including the application for and acceptance of federal funds or private foundation grants for demographic studies.

(p) Act as primary state government liaison with the Census Bureau, United States Department of Commerce, in the acquisition and distribution of census data and related documentation to state agencies.

(q) Administer, with other agencies, a State Census Data Center which will be responsible for acquiring decennial and other census data from the Bureau of the Census, and for providing necessary information to the Legislature and to the executive branch and for seeking to ensure the availability of census information to local governments. The unit and the Office of Planning and Research shall be responsible

for designating subcenters of the State Census Data Center as needed. The unit will provide materials to subcenters of the State Census Data Center, will coordinate the efforts of the subcenters to avoid duplication and may consult in the design of standard reports to be offered by the center and its subcenters.

(r) Coordinate with the Office of Planning and Research Environmental Data Center for the purposes of ensuring consistency and compatibility of data products, improving public access to data, ensuring the consistent interpretation of data, and avoiding duplication of functions.

(s) (1) Determine those census tracts that are to be designated census tracts based on data from the five-year American Community Survey (ACS). The census tracts that are within the highest quartile for both civilian unemployment and poverty statistics, as determined in paragraphs (2) and (3), shall be determined to be designated census tracts pursuant to paragraph (11) of subdivision (b) of Section 17053.73, and paragraph (11) of subdivision (b) of Section 23626.

(2) To determine the census tracts that are within the highest quartile of census tracts with the highest civilian unemployment, the census tracts are to be sorted by the respective civilian unemployment rate of each in ascending order, or from the lowest (0 percent) to the highest (100 percent) according to the following:

(A) Census tracts without a civilian labor force are to be excluded.

(B) After ordering the census tracts by the civilian unemployment rate of each, the census tracts are to be divided into four equal groups or quartiles as follows:

(i) The first quartile represents the lowest fourth of the census tracts (1 percent to 25 percent, inclusive).

(ii) The second quartile represents the second fourth (26 percent to 50 percent, inclusive).

(iii) The third quartile represents the third fourth (51 percent to 75 percent,

inclusive).

(iv) The fourth quartile represents the fourth fourth (76 percent to 100 percent, inclusive).

(C) The last or highest quartile represents the top 25 percent of the census tracts with the highest civilian unemployment rates.

(3) To determine the census tracts that are within the quartile of census tracts with the highest poverty, the census tracts are to be sorted by the respective percentage of population below poverty of each in ascending order, or from the lowest (0 percent) to the highest (100 percent) according to the following:

(A) Consistent with poverty statistics in the ACS, which adhere to the standards specified by the federal Office of Management and Budget in Statistical Policy Directive 14, the poverty thresholds as specified by the United States Census Bureau shall be used to determine those individuals below poverty.

(B) To determine those individuals below poverty, different thresholds, as specified by the United States Census Bureau, shall be applied to families, people living alone or with nonrelatives (unrelated individuals).

(C) If a family's total income is less than the dollar value of the appropriate threshold, then that family and every individual in it are considered to be below poverty.

(D) If an unrelated individual's total income is less than the appropriate threshold, then that individual is considered to be below poverty.

(E) Poverty status is determined for all people except institutionalized people, people in military group quarters, people in college dormitories, and unrelated individuals under 15 years of age.

(F) Census tracts that do not have a population for whom poverty status is determined shall be excluded.

(G) After ordering the census tracts by the respective percent below poverty of

each, the census tracts are to be divided into four equal quartiles as follows:

(i) The first quartile represents the lowest fourth of the census tracts (1 percent to 25 percent, inclusive).

(ii) The second quartile represents the second fourth (26 percent to 50 percent, inclusive).

(iii) The third quartile represents the third fourth (51 percent to 75 percent, inclusive).

(iv) The fourth quartile represents the fourth fourth (76 percent to 100 percent, inclusive).

(H) The last or highest quartile represents the top 25 percent of the census tracts with the highest percentage of population below poverty.

SEC. 2. Section 6377.1 is added to the Revenue and Taxation Code, to read:

6377.1. (a) Except as provided in subdivision (e), on or after January 1, 2014, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, any of the following:

(1) Qualified tangible personal property purchased for use by a qualified person to be used primarily in any stage of the manufacturing, processing, refining, fabricating, or recycling of tangible personal property, beginning at the point any raw materials are received by the qualified person and introduced into the process and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling has altered tangible personal property to its completed form, including packaging, if required.

(2) Qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development.

(3) Qualified tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal

property described in paragraph (1) or (2).

(4) Qualified tangible personal property purchased for use by a contractor purchasing that property for use in the performance of a construction contract for the qualified person, that will use that property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or as a research or storage facility for use in connection with those processes.

(b) For purposes of this section:

(1) “Fabricating” means to make, build, create, produce, or assemble components or tangible personal property to work in a new or different manner.

(2) “Manufacturing” means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(3) “Primarily” means 50 percent or more of the time.

(4) “Process” means the period beginning at the point at which any raw materials are received by the qualified person and introduced into the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person has altered tangible personal property to its completed form, including packaging, if required. Raw materials shall be considered to have been introduced into the process when the raw materials are stored on the same premises where the qualified person’s manufacturing, processing, refining, fabricating, or recycling activity is conducted. Raw materials that are stored on premises other than where the qualified person’s manufacturing, processing, refining, fabricating, or

recycling activity is conducted shall not be considered to have been introduced into the manufacturing, processing, refining, fabricating, or recycling process.

(5) “Processing” means the physical application of the materials and labor necessary to modify or change the characteristics of tangible personal property.

(6) (A) “Qualified person” means a person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 541711, or 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(B) “Qualified person” shall not include either of the following:

(i) An apportioning trade or business that is required to apportion its business income pursuant to subdivision (b) of Section 25128

(ii) A trade or business conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(7) (A) “Qualified tangible personal property” includes, but is not limited to, all of the following:

(i) Machinery and equipment, including component parts and contrivances such as belts, shafts, moving parts, and operating structures.

(ii) Equipment or devices used or required to operate, control, regulate, or maintain the machinery, including, but not limited to, computers, data-processing equipment, and computer software, together with all repair and replacement parts with a useful life of one or more years therefor, whether purchased separately or in conjunction with a complete machine and regardless of whether the machine or component parts are assembled by the qualified person or another party.

(iii) Tangible personal property used in pollution control that meets standards established by this state or any local or regional governmental agency within this state.

(iv) Special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or that constitute a research or storage facility used during those processes. Buildings used solely for warehousing purposes after completion of those processes are not included.

(B) “Qualified tangible personal property” shall not include any of the following: (i) Consumables with a useful life of less than one year.

(ii) Furniture, inventory, and equipment used in the extraction process, or equipment used to store finished products that have completed the manufacturing, processing, refining, fabricating, or recycling process.

(iii) Tangible personal property used primarily in administration, general management, or marketing.

(8) “Refining” means the process of converting a natural resource to an intermediate or finished product.

(9) “Research and development” means those activities that are described in Section 174 of the Internal Revenue Code or in any regulations thereunder.

(10) “Useful life” for tangible personal property that is treated as having a useful life of one or more years for state income or franchise tax purposes shall be deemed to have a useful life of one or more years for purposes of this section. “Useful life” for tangible personal property that is treated as having a useful life of less than one year for state income or franchise tax purposes shall be deemed to have a useful life of less than one year for purposes of this section.

(c) An exemption shall not be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in accordance with any instructions or regulations as the board may prescribe, and the retailer retains the exemption certificate in its records and furnishes it to the board upon request. The exemption certificate shall contain the sales price of the qualified tangible personal

property that the sale of, or the storage, use, or other consumption of, is exempt pursuant to subdivision (a).

(d) (1) Notwithstanding the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) and the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2, 6051.5, 6201.2, or 6201.5, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(e) (1) Notwithstanding subdivision (a), the exemption provided by this section shall not apply to any of the following:

(A) Any tangible personal property purchased during any calendar year that exceeds two hundred million dollars (\$200,000,000) of purchases of qualified tangible personal property for which an exemption is claimed by a qualified person under this section. For purposes of this subparagraph, in the case of a qualified person that is required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the aggregate of all purchases of qualified personal property for which an exemption is claimed pursuant to this section by all persons that are required or authorized to be included in a combined report shall not exceed two hundred million dollars (\$200,000,000) in any calendar year.

(B) The sale or storage, use, or other consumption of property that, within one year from the date of purchase, is removed from California, converted from an exempt

use under subdivision (a) to some other use not qualifying for exemption, or used in a manner not qualifying for exemption.

(2) If a purchaser certifies in writing to the seller that the tangible personal property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax, and within one year from the date of purchase, the purchaser removes that property from California, converts that property for use in a manner not qualifying for the exemption, or uses that property in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the tangible personal property at the time the tangible personal property is removed, converted, or used, and the sales price of the tangible personal property to the purchaser shall be deemed the gross receipts from that retail sale.

(f) This section applies to leases of qualified tangible personal property classified as “continuing sales” and “continuing purchases” in accordance with Sections 6006.1 and 6010.1. The exemption established by this section shall apply to the rentals payable pursuant to the lease, provided the lessee is a qualified person and the tangible personal property is used in an activity described in subdivision (a).

(g) This section shall remain in effect only until January 1, 20__, and as of that date is repealed.

SEC. 3. Section 17053.70 of the Revenue and Taxation Code is amended to read:

17053.70. (a) There shall be allowed as a credit against the “net tax” (as defined

in Section 17039) for ~~the taxable year~~ years beginning before January 1, 2014, an amount equal to the sales or use tax paid or incurred during the taxable year by the taxpayer in connection with the taxpayer's purchase of qualified property.

(b) For purposes of this section:

(1) "Taxpayer" means a person or entity engaged in a trade or business within an enterprise zone.

(2) "Qualified property" means:

(A) Any of the following:

(i) Machinery and machinery parts used for fabricating, processing, assembling, and manufacturing.

(ii) Machinery and machinery parts used for the production of renewable energy resources.

(iii) Machinery and machinery parts used for either of the following:

(I) Air pollution control mechanisms.

(II) Water pollution control mechanisms.

(iv) Data processing and communications equipment, including, but not limited, to computers, computer-automated drafting systems, copy machines, telephone systems, and faxes.

(v) Motion picture manufacturing equipment central to production and postproduction, including, but not limited to, cameras, audio recorders, and digital image and sound processing equipment.

(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by any taxpayer for purposes of claiming this credit shall not exceed one million dollars (\$1,000,000).

(C) The qualified property is used by the taxpayer exclusively in an enterprise zone.

(D) The qualified property is purchased and placed in service before the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(3) “Enterprise zone” means the area designated as an enterprise zone pursuant to former Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(c) If the taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided by this section shall be allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.

(d) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit that exceeds the “net tax” may be carried over and added to the credit, if any, in the succeeding five taxable years if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(e) Any taxpayer ~~who~~ that elects to be subject to this section shall not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the taxpayer’s purchase of qualified property.

(f) (1) The amount of the credit otherwise allowed under this section and former Section 17053.74, including any credit carryover from prior years, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer’s business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the enterprise zone. For that purpose, the

taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (d). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding five taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (d).

(g) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(h) This section shall cease to be operative for taxable years beginning on or after January 1, 2019, and as of December 1, 2019, is repealed.

SEC. 4. Section 17053.73 is added to the Revenue and Taxation Code, to read:

17053.73. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, 2019, there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the “net tax,” as defined in Section 17039, in an amount calculated under this section.

(2) The amount of the credit allowable under this section for a taxable year shall be equal to the product of the tentative credit amount for the taxable year and the applicable percentage for that taxable year.

(3) (A) If a qualified taxpayer relocates to a designated census tract, the qualified taxpayer shall be allowed a credit with respect to qualified wages for each qualified full-time employee employed within the new location only if the qualified taxpayer provides each employee at the previous location or locations a written offer of employment at the new location in the designated census tract with comparable compensation.

(B) For purposes of this paragraph, “relocates to a designated census tract” means an increase in the number of qualified full-time employees, employed by a qualified taxpayer, within a designated census tract or tracts within a 12-month period in which there is a decrease in the number of full-time employees, employed by the qualified taxpayer in this state, but outside of designated census tracts.

(4) The credit allowed by this section may be claimed only on a timely filed original return of the qualified taxpayer and only with respect to a qualified full-time employee for whom the qualified taxpayer has received a tentative credit reservation.

(b) For purposes of this section:

(1) The “tentative credit amount” for a taxable year shall be equal to the product of the applicable credit percentage for each qualified full-time employee and the qualified wages paid by the qualified taxpayer during the taxable year to that qualified full-time employee.

(2) The “applicable percentage” for a taxable year is equal to a fraction, the numerator of which is the net increase in the total number of full-time employees employed in this state during the taxable year, determined on an annual full-time equivalent basis, as compared with the total number of full-time employees employed in this state during the base year, determined on the same basis, and the denominator of which is the total number of qualified full-time employees employed in this state during the taxable year. The applicable percentage shall not exceed 100 percent.

(3)(A) The “applicable credit percentage” means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the qualified taxpayer.

(B)(i) For the 2014 calendar year, the applicable credit percentage shall be 35 percent.

(ii) For calendar years beginning on or after January 1, 2015, the applicable credit percentage for the calendar year shall be determined by the Franchise Tax Board by dividing the tentative credit target for the calendar year by the tentative credit wage base for the preceding calendar year.

(iii) The “applicable credit percentage” shall not exceed 35 percent.

(4) The “tentative credit wage base” for a calendar year means the estimated aggregate amount of wages for which tentative credit reservations have been or are estimated to be provided for the calendar year.

(5)(A) The “tentative credit target” for a calendar year shall be equal to \$X (\$20M), reduced by the tentative credit overage from the preceding calendar year.

(B) The “tentative credit target” for any calendar year shall not be less than zero.

(6)(A) The “tentative credit overage” for a calendar year shall be equal to the excess of the aggregate tentative reservation amount provided for the calendar year, as reflected on tentative credit reservations for that calendar year, over the tentative credit target for that calendar year.

(B) The “tentative credit overage” shall not be less than zero.

(7) The aggregate “tentative reservation amount” provided for a calendar year means the product of the tentative credit wage base and the applicable credit percentage for the calendar year.

(8) “Base year” means the 2013 taxable year, or in the case of a qualified taxpayer who first hires a qualified full-time employee in a taxable year beginning on or after January 1, 2015, the taxable year immediately preceding the taxable year in which the qualified full-time employee was hired.

(9) “Acquired” includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(10) “Annual full-time equivalent” means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, “annual full-time equivalent” means the total number of hours worked for the qualified taxpayer by the employee, not to exceed 2,000 hours per employee, divided by 2,000.

(B) In the case of a salaried full-time employee, “annual full-time equivalent”

means the total number of weeks worked for the qualified taxpayer by the employee divided by 52.

(11) “Designated census tract” means a census tract within the state that is determined by the Department of Finance to have a civilian unemployment rate that is within the top 25 percent of all census tracts within the state and has a poverty rate within the top 25 percent of all census tracts within the state, as prescribed in Section 13073.5 of the Government Code.

(12) “Minimum wage” means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(13) (A) “Qualified full-time employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer’s trade or business located in a designated census tract.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a designated census tract.

(iii) Receives starting wages that are at least 150 percent of the minimum wage.

(iv) Is hired by the qualified taxpayer on or after January 1, 2014.

(v) Is hired by the qualified taxpayer after the effective date of the Department of Finance’s designated census tracts determinations.

(vi) Satisfies either of the following conditions:

(I) Is paid qualified wages by the qualified taxpayer for services not less than an average of 35 hours per week.

(II) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer.

(vii) Upon commencement of employment with the qualified taxpayer, satisfies any of the following conditions:

(I) Was unemployed for the six months immediately preceding employment with the qualified taxpayer. In the case of an individual that completed a program of study at a college, university, or other postsecondary educational institution, received a baccalaureate, postgraduate, or professional degree, and was unemployed for the six months immediately preceding employment with the qualified taxpayer, that individual must have completed that program of study at least 12 months prior to the individual's commencement of employment with the qualified taxpayer.

(II) Is a veteran that had not been employed since separation from service in the Armed Forces of the United States.

(III) Was a recipient of the credit allowed under Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal purposes, for the previous taxable year.

(B) An individual may be considered a qualified full-time employee only for the period of time commencing with the date the individual is first employed by the qualified taxpayer and ending 60 months thereafter.

(14) (A) "Qualified taxpayer" means a person or entity engaged in a trade or business within a designated census tract that, during the taxable year, pays or incurs qualified wages.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 23626 shall be allowed to the pass-thru entity and passed through to the partners and shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term "pass-thru entity" means any partnership or "S" corporation.

(C) “Qualified taxpayers” shall not include any of the following:

(i) Employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 Edition.

(ii) Employers that provide retail trade services, as described in Sector 44-45 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 Edition.

(iii) Employers that are primarily engaged in providing food services, as described in Code 711110, 722511, 722513, 722514, or 722515 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 Edition.

(iv) Employers that are primarily engaged in services as described in Code 713210, 721120, or 722410 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 Edition.

(D) Subparagraph (C)(ii) and (iii) shall not apply to a taxpayer that is a “small business.”

(15) “Qualified wages” means those wages that meet all of the following requirements:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds 150 percent of minimum wage, but does not exceed 350 percent of minimum wage.

(B) Wages paid or incurred during the 60-month period beginning with the first day the qualified full-time employee commences employment with the qualified taxpayer. In the case of any employee who is reemployed, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer,

this reemployment shall not be treated as constituting commencement of employment for purposes of this section.

(C) Except as provided in paragraph (3) of subdivision (m), qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the date that the Department of Finance's redesignation of designated census tracts is effective, as provided in paragraph (2) of subdivision (g), so that a census tract is no longer a designated census tract.

(16) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(17) (A) For purposes of paragraph (14), "small business" means a trade or business that has aggregate gross receipts, less returns and allowances reportable to this state, of less than two million dollars (\$2,000,000) during the previous taxable year.

(B) (i) For purposes of this paragraph, "gross receipts, less returns and allowances reportable to this state," means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(ii) In the case of any trade or business activity conducted by a partnership or an "S" corporation, the limitations set forth in subparagraph (A) shall be applied to the partnership or "S" corporation at the entity level.

(18) An individual is "unemployed" for any period for which the individual is all of the following:

(A) Not in receipt of wages subject to withholding under Section 13020 of the Unemployment Insurance Code for that period.

(B) Not a self-employed individual (within the meaning of Section 401(c)(1)(B))

of the Internal Revenue Code, relating to self-employed individual) for that period.

(C) Not a registered full-time student at a high school, college, university, or other postsecondary educational institution for that period.

(c) The net increase in full-time employees of a qualified taxpayer shall be determined as provided by this subdivision:

(1) (A) The net increase in full-time employees shall be determined on an annual full-time equivalent basis by subtracting from the amount determined in subparagraph (C) the amount determined in subparagraph (B).

(B) The total number of full-time employees employed in the preceding taxable year by the taxpayer and by any trade or business acquired by the taxpayer during the current taxable year.

(C) The total number of full-time employees employed in the current taxable year by the taxpayer and by any trade or business acquired during the current taxable year.

(2) For taxpayers who first commence doing business in this state during the taxable year, the number of full-time employees for the immediately preceding taxable year shall be zero.

(d) For purposes of this section:

(1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (f) of Section 17276.20, without application of paragraph (7) of that subdivision, shall apply.

(e) (1) To be eligible for the credit allowed by this section, a qualified taxpayer shall, upon hiring a qualified full-time employee, request a tentative credit reservation

from the Franchise Tax Board within 30 days of complying with the Employment Development Department's new hire reporting requirements as provided in Section 1088.5 of the Unemployment Insurance Code, in a form and manner prescribed by the Franchise Tax Board.

(2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, social security number, the start date of employment, the rate of pay of the qualified full-time employee, and the qualified taxpayer's gross receipts, less returns and allowances, for the previous taxable year.

(3) The qualified taxpayer shall provide the Franchise Tax Board an annual certification of employment with respect to each qualified full-time employee hired in a previous taxable year, on or before, the 15th day of the third month of the taxable year. The certification shall include necessary information, as determined by the Franchise Tax Board, including the name, social security number, start date of employment, and rate of pay for each qualified full-time employee employed by the qualified taxpayer.

(4) A tentative credit reservation provided to a taxpayer with respect to an employee of that taxpayer shall not constitute a determination by the Franchise Tax Board with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(f) The Franchise Tax Board shall do all of the following: (1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year and advise the qualified taxpayer of the applicable credit percentage for that qualified full-time employee.

(2) Determine and publish on its Internet Web site, on or before September 1 of each calendar year, the applicable credit percentage for the following calendar

year.

(3) Estimate the tentative credit wage base amount for a calendar year based on the starting wage or salary and full-time employment for an entire calendar year.

(4) Determine the aggregate tentative reservation amount for a calendar year.

(g) (1) The Department of Finance shall, by January 1, 2014, and by January 1 of every fifth year thereafter, provide the Franchise Tax Board with a list of the designated census tracts.

(2) The redesignation of designated census tracts by the Department of Finance as provided in Section 13073.5 of the Government Code shall be effective, for purposes of this credit, one year after the date the Department of Finance redesignates the designated census tracts.

(h) For purposes of this section:

(1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.

(2) All employees of trades or businesses that are not incorporated, and that are under common control, shall be treated as employed by a single taxpayer.

(3) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated to that trade or business in that manner.

(4) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (h) of Section 23626, shall apply with respect to determining employment.

(5) If an employer acquires the major portion of a trade or business of another employer, hereinafter in this paragraph referred to as the predecessor, or the major

portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section, other than subdivision (k), for any taxable year ending after that acquisition, the employment relationship between a qualified full-time employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(i) (1) If the employment of any qualified full-time employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the qualified taxpayer at any time during the first 36 months after commencing employment with the qualified taxpayer, whether or not consecutive, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) shall not apply to any of the following:

(A) A termination of employment of a qualified full-time employee who voluntarily leaves the employment of the qualified taxpayer.

(B) A termination of employment of a qualified full-time employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(C) A termination of employment of a qualified full-time employee, if it is determined that the termination was due to the misconduct, as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations, of that employee.

(D) A termination of employment of a qualified full-time employee due to a

substantial reduction in the trade or business operations of the qualified taxpayer.

(E) A termination of employment of a qualified full-time employee, if that employee is replaced by other qualified full-time employees so as to create a net increase in both the number of employees and the hours of employment.

(3) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified full-time employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified full-time employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(4) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(j) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(k) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and the succeeding four years if necessary, until the credit is exhausted.

(l) (1) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter

3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(2) The determination of the Franchise Tax Board, with respect to the date a tentative credit reservation request has been received by the Franchise Tax Board, and the Franchise Tax Board's rejection of an incomplete, invalid, or untimely tentative credit reservation request shall not be reviewed in any administrative or judicial proceeding.

(m) (1) This section shall remain in effect only until December 1, 2024, and as of that date is repealed.

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, 2019, but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract in a taxable year beginning before January 1, 2019.

(3) This section shall remain operative for any qualified taxpayer with respect to any qualified full-time employee after the designated census tract is no longer designated for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census tract is no longer designated shall be treated as qualified wages under this section, provided the employee satisfies any other requirements of paragraphs (12) and (14) of subdivision (b), as if the designated census tracts were still designated and binding.

SEC. 5. Section 17059.2 is added to the Revenue and Taxation Code, to read:

17059.2. (a) (1) For each taxable year beginning on and after January 1, 2014,

and before January 1, 2019, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount as determined by the committee pursuant to paragraph (2) and approved pursuant to Section 18410.2.

(2) The amount of credit allocated to a taxpayer pursuant to this section shall be as set forth in a written agreement between GO-Biz and the taxpayer and shall be based on the following factors:

(A) The number of jobs the taxpayer will create or retain in this state.

(B) The amount of investment in this state by the taxpayer.

(C) The extent of unemployment in the area in which the taxpayer’s project or business is proposed or located.

(D) The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.

(E) Any other factors deemed appropriate by the committee.

(3) The written agreement entered into pursuant to paragraph (2) shall include:

(A) Terms and conditions that include a minimum compensation level and a minimum job retention period.

(B) Provisions indicating whether the credit is to be allocated in full upon approval or in increments based on mutually agreed upon milestones when satisfactorily met by the taxpayer.

(C) Provisions that allow the committee to recapture the credit, in whole or in part, if the taxpayer fails to fulfill the terms and conditions of the written agreement.

(b) For purposes of this section:

(1) “Committee” means the California Competes Tax Credit Committee established pursuant to Section 18410.2.

(2) “GO-Biz” means the Governor’s Office of Business and Economic Development.

(c) For purposes of this section, GO-Biz shall do the following:

(1) Negotiate with a taxpayer the terms and conditions of proposed written agreements that provide the credit allowed pursuant to this section to a taxpayer.

(2) Provide the negotiated written agreement to the committee for its approval pursuant to Section 18410.2.

(3) Inform the Franchise Tax Board of the terms and conditions of the written agreement upon approval of the written agreement by the committee.

(4) Inform the Franchise Tax Board of any recapture, in whole or in part, of a previously allocated credit upon approval of the recapture by the committee.

(5) Post on its Internet Web site all of the following:

(A) The name of each taxpayer allocated a credit pursuant to this section.

(B) The estimated amount of the investment by each taxpayer.

(C) The estimated number of jobs created or retained.

(D) The amount of the credit allocated to the taxpayer.

(E) The amount of the credit recaptured from the taxpayer, if applicable.

(d) For purposes of this section, the Franchise Tax Board shall do all of the following:

(1) (A) Except as provided in subparagraph (B), review the books and records of all taxpayers allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz.

(B) In the case of a taxpayer that is a “small business,” as defined in Section 17053.73, review the books and records of the taxpayer allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz when, in the sole discretion of the Franchise Tax Board, a review of those books and records is appropriate or necessary in the best interests of the state.

(2) Notwithstanding Section 19542:

(A) Notify GO-Biz of a possible breach of the written agreement by a taxpayer and provide detailed information regarding the basis for that determination.

(B) Provide information to GO-Biz with respect to whether a taxpayer is a “small business,” as defined in Section 17053.73.

(e) In the case where the credit allowed under this section exceeds the “net tax,” the excess credit may be carried over to reduce the “net tax” in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(f) Any recapture, in whole or in part, of a credit approved by the committee pursuant to Section 18410.2 shall be treated as a mathematical error appearing on the return. Any amount of tax resulting from that recapture may be assessed by the Franchise Tax Board in the same manner as provided by Section 19051. The amount of tax resulting from the recapture shall be added to the tax otherwise due by the taxpayer for the taxable year in which the committee’s recapture determination occurred.

(g) (1) The aggregate amount of credit that may be allocated in any fiscal year pursuant to this section and Section 23689 shall be an amount equal to the sum of (A), (B), and (C), less (D):

(A) ____ dollars (\$____) for the 2013–14 fiscal year and ____ dollars (\$____) in credits for each fiscal year thereafter.

(B) The unallocated credit amount, if any, from the preceding fiscal year.

(C) The amount of any previously allocated credits that have been recaptured.

(D) The amount by which the exemptions claimed in the prior year pursuant to section 6377.1 plus the amounts claimed in the prior year pursuant to sections 17053.70, 17059.2, 23626, and 23689 exceed seven hundred fifty million dollars (\$750,000,000).

(2) Each fiscal year, 25 percent of the aggregate amount of the credit that may be allocated pursuant to this section and Section 23689 shall be reserved for small business owners, as defined in Section 17053.73, or small businesses, as defined in Section 23626.

(3) If the amount of credits applied for in any particular fiscal year exceeds the aggregate amount of tax credits authorized to be allocated under this section and Section 23689, the excess may be treated as having been allocated on the first day of the subsequent fiscal year. However, credits may not be allocated from a fiscal year other than the fiscal year in which the written agreement made pursuant to this section or Section 23689 was originally agreed upon and approved or the immediately succeeding fiscal year.

(h) GO-Biz may prescribe rules and regulations as necessary to carry out the purposes of this section. Any rule or regulation prescribed pursuant to this section may be by adoption of an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 6. Section 18410.2 is added to the Revenue and Taxation Code, to read:

18410.2. (a) The California Competes Tax Credit Committee is hereby established. The committee shall consist of the Treasurer, the Director of Finance, and the Director of the Governor's Office of Business and Economic Development, or their designated representatives.

(b) For purposes of Sections 17059.2 and 23689, the California Competes Tax Credit Committee shall do all of the following:

(1) Approve or reject any written agreement for a tax credit allocation by resolution at a duly noticed public meeting held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt of the

fully executed written agreement between the taxpayer and the Governor's Office of Business and Economic Development.

(2) Approve or reject any recommendation to recapture, in whole or in part, a tax credit allocation by resolution at a duly noticed public meeting held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt of the recommendation from the Governor's Office of Business and Economic Development pursuant to the terms of the fully executed written agreement.

SEC. 7. Section 23612.2 of the Revenue and Taxation Code is amended to read:

23612.2. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) for ~~the taxable year~~ years beginning before January 1, 2014, an amount equal to the sales or use tax paid or incurred during the taxable year by the taxpayer in connection with the taxpayer's purchase of qualified property.

(b) For purposes of this section:

(1) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone.

(2) "Qualified property" means:

(A) Any of the following:

(i) Machinery and machinery parts used for fabricating, processing, assembling, and manufacturing.

(ii) Machinery and machinery parts used for the production of renewable energy resources.

(iii) Machinery and machinery parts used for either of the following:

(I) Air pollution control mechanisms.

(II) Water pollution control mechanisms.

(iv) Data-processing and communications equipment, including, but not limited

to, computers, computer-automated drafting systems, copy machines, telephone systems, and faxes.

(v) Motion picture manufacturing equipment central to production and postproduction, including, but not limited to, cameras, audio recorders, and digital image and sound processing equipment.

(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by any taxpayer for purposes of claiming this credit shall not exceed twenty million dollars (\$20,000,000).

(C) The qualified property is used by the taxpayer exclusively in an enterprise zone.

(D) The qualified property is purchased and placed in service before the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(3) “Enterprise zone” means the area designated as an enterprise zone pursuant to former Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(c) If the taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided by this section shall be allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.

(d) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit which exceeds the “tax” may be carried over and added to the credit, if any, in the ~~following year, and~~ succeeding five taxable years if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(e) Any taxpayer ~~who~~ that elects to be subject to this section shall not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in

connection with the taxpayer's purchase of qualified property.

(f) (1) The amount of credit otherwise allowed under this section and former Section 23622.7, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this

state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (d). However, the portion of any credit remaining for carryover to taxable years beginning on January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding five taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (d).

(g) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(h) This section shall cease to be operative for taxable years beginning on or after January 1, 2019, and as of December 1, 2019, is repealed.

SEC. 8. Section 23626 is added to the Revenue and Taxation Code, to read:

23626. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, 2019, there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the “tax,” as defined by Section 23036, in an amount calculated under this section.

(2) The amount of the credit allowable under this section for a taxable year shall be equal to the product of the tentative credit amount for the taxable year and the applicable percentage for the taxable year.

(3) (A) If a qualified taxpayer relocates to a designated census tract, the qualified taxpayer shall be allowed a credit with respect to qualified wages for each qualified

full-time employee who is employed within the new location only if the qualified taxpayer provides each employee at the previous location or locations a written offer of employment at the new location in the designated census tract with comparable compensation.

(B) For purposes of this paragraph, “relocates to a designated census tract” means an increase in the number of qualified full-time employees, employed by a qualified taxpayer, within a designated census tract or tracts within a 12-month period in which there is a decrease in the number of full-time employees, employed by the qualified taxpayer in this state, but outside of designated census tracts.

(4) The credit allowed by this section may only be claimed on a timely filed original return of the qualified taxpayer and only with respect to a qualified full-time employee for whom the qualified taxpayer has received a tentative credit reservation.

(b) For purposes of this section:

(1) The “tentative credit amount” for a taxable year shall be equal to the product of the applicable credit percentage for each qualified full-time employee and the qualified wages paid by the qualified taxpayer during the taxable year to that qualified full-time employee.

(2) The “applicable percentage” for a taxable year is equal to a fraction, the numerator of which is the net increase in the total number of full-time employees employed in this state during the taxable year, determined on an annual full-time equivalent basis, as compared with the total number of full-time employees employed in this state during the base year, determined on the same basis, and the denominator of which is the total number of qualified full-time employees employed in this state during the taxable year. The applicable percentage shall not exceed 100 percent.

(3)(A) The “applicable credit percentage” means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the

qualified taxpayer.

(B)(i) For the 2014 calendar year, the applicable credit percentage shall be 35 percent.

(ii) For calendar years beginning on or after January 1, 2015, the applicable credit percentage for the calendar year shall be determined by the Franchise Tax Board by dividing the tentative credit target for the calendar year by the tentative credit wage base for the preceding calendar year.

(iii) The “applicable credit percentage” shall not exceed 35 percent.

(4) The “tentative credit wage base” for a calendar year means the estimated aggregate amount of wages for which tentative credit reservations have been or are estimated to be provided for the calendar year.

(5)(A) The “tentative credit target” for a calendar year shall be equal to \$X (\$20M), reduced by the tentative credit overage from the preceding calendar year.

(B) The “tentative credit target” for any calendar year shall not be less than zero.

(6)(A) The “tentative credit overage” for a calendar year shall be equal to the excess of the aggregate tentative reservation amount provided for the calendar year, as reflected on tentative credit reservations for that calendar year, over the tentative credit target for that calendar year.

(B) The “tentative credit overage” shall not be less than zero.

(7) The aggregate “tentative reservation amount” provided for a calendar year means the product of the tentative credit wage base and the applicable credit percentage for the calendar year.

(8) “Base year” means the 2013 taxable year, or in the case of a qualified taxpayer who first hires a qualified full-time employee in a taxable year beginning on or after January 2015, the taxable year immediately preceding the taxable year in which the

qualified full-time employee was hired.

(9) “Acquired” includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(10) “Annual full-time equivalent” means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, “annual full-time equivalent” means the total number of hours worked for the qualified taxpayer by the employee (not to exceed 2,000 hours per employee) divided by 2,000.

(B) In the case of a salaried full-time employee, “annual full-time equivalent” means the total number of weeks worked for the qualified taxpayer by the employee divided by 52.

(11) “Designated census tract” means a census tract within the state that is determined by the Department of Finance to have a civilian unemployment rate that is within the top 25 percent of all census tracts within the state and has a poverty rate within the top 25 percent of all census tracts within the state, as prescribed in Section 13073.5 of the Government Code.

(12) “Minimum wage” means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(13) (A) “Qualified full-time employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the qualified taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in a designated census tract.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a designated census tract.

(iii) Receives starting wages that are at least 150 percent of the minimum wage.

(iv) Is hired by the qualified taxpayer on or after January 1, 2014.

(v) Is hired by the qualified taxpayer after the date the Department of Finance determines that the census tract in which services were performed is designated a designated census tract.

(vi) Satisfies either of the following conditions:

(I) Is paid qualified wages by the qualified taxpayer for services not less than an average of 35 hours per week.

(II) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer.

(vii) Upon commencement of employment with the qualified taxpayer, satisfies any of the following conditions:

(I) Was unemployed for the six months immediately preceding employment with the qualified taxpayer. In the case of an individual who completed a program of study at a college, university, or other postsecondary educational institution, received a baccalaureate, postgraduate, or professional degree, and was unemployed for the six months immediately preceding employment with the qualified taxpayer, that individual must have completed that program of study at least 12 months prior to the individual's commencement of employment with the qualified taxpayer.

(II) Is a veteran that had not been employed since separation from service in the Armed Forces of the United States.

(III) Was a recipient of the credit allowed under Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal purposes, for the previous taxable year.

(B) An individual may only be considered a qualified full-time employee for the period of time commencing with the date the individual is first employed by the qualified taxpayer and ending 60 months thereafter.

(14) (A) “Qualified taxpayer” means a corporation engaged in a trade or business within designated census tract that, during the taxable year, pays or incurs qualified wages.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 17053.73 shall be allowed to the pass-thru entity and passed through to the partners and shareholders in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subdivision, the term “pass-thru entity” means any partnership or “S” corporation.

(C) “Qualified taxpayer” shall not include any of the following:

(i) Employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 Edition.

(ii) Employers that provide retail trade services, as described in Sector 44-45 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 Edition.

(iii) Employers that are primarily engaged in providing food services, as described in Code 711110, 722511, 722513, 722514, or 722515 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 Edition.

(iv) Employers that are primarily engaged in services as described in Code 713210, 721120, or 722410 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 Edition.

(D) Subparagraph (C)(ii) and (iii) shall not apply to a taxpayer that is a “small business.”

(15) “Qualified wages” means those wages that meet all of the following requirements:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds 150 percent of minimum wage, but does not exceed 350 percent of the minimum wage.

(B) Wages paid or incurred during the 60-month period beginning with the first day the qualified full-time employee commences employment with the qualified taxpayer. In the case of any employee who is reemployed, including regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer, this reemployment shall not be treated as constituting commencement of employment for purposes of this section.

(C) Except as provided in paragraph (3) of subdivision (j), qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the date that the Department of Finance’s redesignation of designated census tracts is effective, as provided in paragraph (2) of subdivision (e), so that a census tract is no longer determined to be a designated census tract.

(16) “Seasonal employment” means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(17) (A) For purposes of paragraph (13) “small business” means a trade or business that has aggregate gross receipts, less returns and allowances reportable to this state, of less than two million dollars (\$2,000,000) during the previous taxable year.

(B) (i) For purposes of this paragraph, “gross receipts, less returns and allowances reportable to this state,” means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section

25120.

(ii) In the case of any trade or business activity conducted by a partnership or an “S” corporation, the limitations set forth in subparagraph (A) shall be applied to the partnership or “S” corporation at the entity level.

(18) An individual is “unemployed” for any period for which the individual is all of the following:

(A) Not in receipt of wages subject to withholding under Section 13020 of the Unemployment Insurance Code for that period.

(B) Not a self-employed individual (within the meaning of Section 401(c)(1)(B) of the Internal Revenue Code, relating to self-employed individual) for that period.

(C) Not a registered full-time student at a high school, college, university, or other postsecondary educational institution for that period.

(c) The net increase in full-time employees of a qualified taxpayer shall be determined as provided by this subdivision:

(1) (A) The net increase in full-time employees shall be determined on an annual full-time equivalent basis by subtracting from the amount determined in subparagraph (C) the amount determined in subparagraph (B).

(B) The total number of full-time employees employed in the preceding taxable year by the taxpayer and by any trade or business acquired by the taxpayer during the current taxable year.

(C) The total number of full-time employees employed in the current taxable year by the taxpayer and by any trade or business acquired during the current taxable year.

(2) For taxpayers who first commence doing business in this state during the taxable year, the number of full-time employees for the immediately preceding taxable year shall be zero.

(d) For purposes of this section:

(1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (f) of Section 17276.20, without application of paragraph (7) of that subdivision, shall apply.

(e) (1) To be eligible for the credit allowed by this section, a qualified taxpayer shall, upon hiring a qualified full-time employee, request a tentative credit reservation from the Franchise Tax Board within 30 days of complying with the Employment development Department's new hire reporting requirement as provided in Section 1088.5 of the Unemployment Insurance code.

(2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, the social security number, the start date of employment, the rate of pay of the qualified full-time employee, and the qualified taxpayer's gross receipts, less returns and allowances in this state, for the previous taxable year.

(3) The qualified taxpayer shall provide the Franchise Tax Board an annual certification of employment with respect to each qualified full-time employee hire in a previous taxable year, on or before the 15th day of the third month of the taxable year. The certification shall include necessary information, as determined by the Franchise Tax Board, including the name, social security number, start date of employment, and rate of pay for each qualified full-time employee employed by the qualified taxpayer.

(4) A tentative credit reservation provided to a taxpayer with respect to an

employee of that taxpayer shall not constitute a determination by the Franchise Tax Board with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(f) The Franchise Tax Board shall do all of the following:

(1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year and advise the qualified taxpayer of the applicable credit percentage for that qualified full-time employee.

(2) Determine and publish on its Internet Web site, on or before September 1 of each calendar year, the applicable credit percentage for the following calendar year.

(3) Estimate the tentative credit wage base amount for a calendar year based on the starting wage or salary and full-time employment for an entire calendar year.

(4) Determine the aggregate tentative reservation amount for a calendar year.

(g) (1) The Department of Finance shall, by January 1, 2014, and by January 1 of every fifth year thereafter, provide the Franchise Tax Board with a list of the designated census tracts.

(2) The redesignation of designated census tracts by the Department of Finance as provided in Section 13073.5 of the Government Code shall be effective, for purposes of this credit, one year after the date that the Department of Finance redesignates the designated census tracts.

(h) (1) For purposes of this section:

(A) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single qualified taxpayer.

(B) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single qualified taxpayer.

(C) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(D) If a qualified taxpayer acquires the major portion of a trade or business of another taxpayer, hereinafter in this paragraph referred to as the predecessor, or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section for any taxable year ending after that acquisition, the employment relationship between a qualified full-time employee and a qualified taxpayer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(2) For purposes of this subdivision, “controlled group of corporations” means a controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code, except that:

(A) “More than 50 percent” shall be substituted for “at least 80 percent” each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(B) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(3) Rules similar to the rules provided in Sections 46(e) and 46(h) of the Internal Revenue Code, as in effect on November 4, 1990, shall apply to both of the following:

(A) An organization to which Section 593 of the Internal Revenue Code applies.

(B) A regulated investment company or a real estate investment trust subject to taxation under this part.

(i) (1) If the employment of any qualified full-time employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the qualified taxpayer at any time during the first 36 months after commencing employment with the qualified taxpayer, whether or not consecutive, the tax imposed

by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) shall not apply to any of the following:

(A) A termination of employment of a qualified full-time employee who voluntarily leaves the employment of the qualified taxpayer.

(B) A termination of employment of a qualified full-time employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(C) A termination of employment of a qualified full-time employee, if it is determined that the termination was due to the misconduct, as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations, of that employee.

(D) A termination of employment of a qualified full-time employee due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(E) A termination of employment of a qualified full-time employee, if that employee is replaced by other qualified full-time employees so as to create a net increase in both the number of employees and the hours of employment.

(3) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified full-time employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified full-time employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade

or business.

(4) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(j) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and the succeeding four years if necessary, until exhausted.

(k) (1) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(2) The determination of the Franchise Tax Board, with respect to the date a tentative credit reservation request has been received by the Franchise Tax Board, and the Franchise Tax Board’s rejection of an incomplete, invalid, or untimely tentative credit reservation request shall not be reviewed in any administrative or judicial proceeding.

(l) (1) This section shall remain in effect only until December 1, 2024, and as of that date is repealed.

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, 2019, but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract in a taxable year beginning before January 1, 2019.

(3) This section shall remain operative for any qualified taxpayer with respect

to any qualified full-time employee after the designated census tract is no longer designated for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census tract is no longer designated shall be treated as qualified wages under this section, provided the employee satisfies any other requirements of paragraphs (13) and (15) of subdivision (b), as if the designated census tracts were still designated and binding.

SEC. 9. Section 23689 is added to the Revenue and Taxation Code, to read:

23689. (a) (1) For each taxable year beginning on and after January 1, 2014, and before January 1, 2019, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount as determined by the committee pursuant to paragraph (2) and approved pursuant to Section 18410.2.

(2) The amount of credit allocated to a taxpayer pursuant to this section shall be as set forth in a written agreement between GO-Biz and the taxpayer and shall be based on the following factors:

(A) The number of jobs the taxpayer will create or retain in this state.

(B) The amount of investment in this state by the taxpayer.

(C) The extent of unemployment in the area in which the taxpayer's project or business is proposed or located.

(D) The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.

(E) Any other factors deemed appropriate by the committee.

(3) The written agreement entered into pursuant to paragraph (2) shall include: (A) Terms and conditions that include a minimum compensation level and a minimum job retention period.

(B) Provisions indicating whether the credit is to be allocated in full upon approval or in increments based on mutually agreed upon milestones when satisfactorily met by the taxpayer.

(C) Provisions that allow the committee to recapture the credit, in whole or in part, if the taxpayer fails to fulfill the terms and conditions of the written agreement.

(b) For purposes of this section:

(1) "Committee" means the California Competes Tax Credit Committee established pursuant to Section 18410.2.

(2) "GO-Biz" means the Governor's Office of Business and Economic Development.

(c) For purposes of this section, GO-Biz shall do the following:

(1) Negotiate with a taxpayer the terms and conditions of proposed written agreements that provide the credit allowed pursuant to this section to a taxpayer.

(2) Provide the negotiated written agreement to the committee for its approval pursuant to Section 18410.2.

(3) Inform the Franchise Tax Board of the terms and conditions of the written agreement upon approval of the written agreement by the committee.

(4) Inform the Franchise Tax Board of any recapture, in whole or in part, of a previously allocated credit upon approval of the recapture by the committee.

(5) Post on its Internet Web site all of the following:

(A) The name of each taxpayer allocated a credit pursuant to this section.

(B) The estimated amount of the investment by each taxpayer.

(C) The estimated number of jobs created or retained.

(D) The amount of the credit allocated to the taxpayer.

(E) The amount of the credit recaptured from the taxpayer, if applicable.

(d) For purposes of this section, the Franchise Tax Board shall do all of the

following:

(1) (A) Except as provided in subparagraph (B), review the books and records of all taxpayers allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz.

(B) In the case of a taxpayer that is a “small business,” as defined in Section 23626, review the books and records of the taxpayer allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayers and GO-Biz when, in the sole discretion of the Franchise Tax Board, a review of those books and records is appropriate or necessary in the best interests of the state.

(2) Notwithstanding Section 19542:

(A) Notify GO-Biz of a possible breach of the written agreement by a taxpayer and provide detailed information regarding the basis for that determination.

(B) Provide information to GO-Biz with respect to whether a taxpayer is a “small business,” as defined in Section 23626.

(e) In the case where the credit allowed under this section exceeds the “tax,” the excess credit may be carried over to reduce the “tax” in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(f) Any recapture, in whole or in part, of a credit approved by the committee pursuant to Section 18410.2 shall be treated as a mathematical error appearing on the return. Any amount of tax resulting from that recapture may be assessed by the Franchise Tax Board in the same manner as provided by Section 19051. The amount of tax resulting from the recapture shall be added to the tax otherwise due by the taxpayer for the taxable year in which the committee’s recapture determination occurred.

(g) (1) The aggregate amount of credit that may be allocated in any fiscal year pursuant to this section and Section 17059.2 shall be an amount equal to the sum of

(A), (B), and (C), less (D):

(A) ____ dollars (\$____) for the 2013–14 fiscal year and ____ dollars (\$____) in credits for each fiscal year thereafter.

(B) The unallocated credit amount, if any, from the preceding fiscal year.

(C) The amount of any previously allocated credits that have been recaptured.

(D) The amount by which the exemptions claimed in the prior year pursuant to section 6377.1 plus the amounts claimed in the prior year pursuant to sections 17053.70, 17059.2, 23626, and 23689 exceed seven hundred fifty million dollars (\$750,000,000).

(2) Each fiscal year, 25 percent of the aggregate amount of the credit that may be allocated pursuant to this section and Section 17059.2 shall be reserved for “small businesses,” as defined in Section 17053.73, or “small businesses,” as defined in Section 23626.

(3) If the amount of credits applied for in any particular fiscal year exceeds the aggregate amount of tax credits authorized to be allocated under this section and Section 17059.2, that excess may be treated as having been allocated on the first day of the subsequent fiscal year. However, credits may not be allocated from a fiscal year other than the fiscal year in which the written agreement made pursuant to this section or Section 17059.2 was originally agreed upon and approved or the immediately succeeding fiscal year.

(h) GO-Biz may prescribe rules and regulations as necessary to carry out the purposes of this section. Any rule or regulation prescribed pursuant to this section may be by adoption of an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 10. There is hereby appropriated up to \$600,000 from the General Fund for allocation to departments by the Director of Finance in furtherance of the

objectives of this act. An allocation of funds approved by the Director of Finance under this item shall become effective no sooner than 30 days after the director files written notification thereof with the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature, or no sooner than any lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the public good by providing certainty regarding the incentives available for attracting and retaining jobs in economically distressed areas of the state, it is necessary that this act take effect immediately.

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