

ASSEMBLY BILL

No. 653

Introduced by Assembly Member V. Manuel Pérez

February 21, 2013

An act to amend Sections 11346.1 and 13997.6 of, and to add Article 5.5 (commencing with Section 11348.5) to Chapter 3.5 of Part 1 of Division 3 of Title 2 of, and Article 4.5 (commencing with Section 12097) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of, the Government Code, and to amend Sections 17052.12 and 23609 of, and to add Sections 6377, 17053.87, and 23687 to, the Revenue and Taxation Code, relating to state government making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 653, as introduced, V. Manuel Pérez. State government.

(1) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would also require state agencies to submit these regulatory actions to the Joint Rules Committee of the Legislature, which would be authorized to submit a regulatory action to the appropriate policy committee in each house for review. The bill would authorize the policy committee to either make recommendations to the agency or to send the action to the floor of either house, which could reject the regulatory action by a resolution, as specified.

(2) The Economic Revitalization Act establishes the Governor's Office of Business and Economic Development, also known as "GO-Biz," to, among other duties, serve the Governor as the lead entity

for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Existing law establishes the California Economic Development Fund holding funds that, upon appropriation by the Legislature, GO-Biz may use for economic development purposes, as specified.

This bill would create the California Innovation Hub Program (iHub Program) within GO-Biz to create regional offices that would provide specialized counseling, training, and networking services to assist entrepreneurs establish and grow businesses for local and in-state job retention, creation, and future expansion. This bill would authorize GO-Biz, in collaboration with the Department of General Services, to identify unoccupied and underutilized real property owned or leased by the state, and use that real property to support the iHub Program, as specified. This bill would modify the California Economic Development Fund to be a continuously appropriated fund for the economic development purposes of GO-Biz, and in doing so, would make an appropriation.

(3) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law provides various exemptions from those taxes.

On and after January 1, 2014, this bill would exempt from those taxes the sale of, and the storage, use, or other consumption in this state of, tangible personal property, as defined, purchased for use by a qualified person, as defined, primarily in any stage of manufacturing, processing, refining, fabricating, or recycling of tangible personal property, as specified.

(4) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including a credit for certain research and development expenses, as provided.

This bill would, for taxable years commencing on and after January 1, 2014, increase the credit for research and development expenses, as provided, and would require taxpayers utilizing these credits on or after that date to report specified information to the Franchise Tax Board.

This bill would, for taxable years beginning on or after January 1, 2014, allow a credit against those taxes for a qualified taxpayer, as defined, of 40% of the amount of a qualified contribution, as defined, made in that taxable year by a business entity to a postsecondary

educational institution for curriculum or research leading to job opportunities in the private sector, or consultation services associated with the establishment of curriculum or research leading to job opportunities in the private sector, where the business entity and the postsecondary educational institution agree that there is a substantial potential for the future employment of students as a result of the contribution.

(5) This bill would provide that the provisions of this bill are severable.

(6) The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 California Innovation and Jobs Act.
- 3 SEC. 2. The Legislature hereby finds and declares:
- 4 (a) California, in the last 10 years has declined from the sixth
- 5 largest economy in the world to the ninth, now behind Brazil.
- 6 During that time, manufacturing declined in California from 1.865
- 7 million jobs to 1.257 million jobs.
- 8 (b) California has experienced continual budget deficits
- 9 beginning with the “dot com” bust which occurred in 2000, and
- 10 has never fully recovered. Every year, the Legislature has had to

1 grapple with too few revenues to meet a continuing demand for
2 public services.

3 (c) The solution to California’s decline in its economic status,
4 and thus, lack of revenues, is not simply to cut the budget and raise
5 taxes. Instead, it lies in developing a long-term economic plan for
6 the state that envisions state government becoming a better working
7 partner to attract private sector capital to spur economic
8 development and job growth.

9 (d) California needs to compete globally. It needs to expand its
10 leadership as an exporter of goods. California needs to recognize
11 its biggest asset in combating a fatigued economy is its innovative
12 human capital; it needs to recognize that the private sector, through
13 the “Innovation Economy” must be incentivized to reach new
14 heights and growth potential. State and local government need to
15 be the Innovation Economy’s partner and not a roadblock to
16 success.

17 (e) California is uniquely positioned to unleash its full economic
18 potential. We see on a daily basis the convergence of innovative
19 technologies being integrated into our daily lives that most
20 Californians take for granted, because these technologies were
21 invented and developed in California: new advancements in
22 biopharmaceuticals that improve people’s lives on a daily basis,
23 advancements in smart phone technology, and Internet Web sites
24 that allow Californians to be connected to the world have
25 predominately been developed in California.

26 (f) California needs to invest in the Innovation Economy by
27 eliminating roadblocks in state law and regulation and developing
28 a tax system that rewards capital expenditures in order to ensure
29 that the private sector will invest its financial capital in combination
30 with the intellectual capital that California has to offer through its
31 education system, in particular its universities.

32 SEC. 3. Section 11346.1 of the Government Code is amended
33 to read:

34 11346.1. (a) (1) The adoption, amendment, or repeal of an
35 emergency regulation is not subject to any provision of this article
36 or Article 6 (commencing with Section 11349), except this section
37 and Sections ~~11349.5~~ 11348.5, 11349.5, and 11349.6.

38 (2) At least five working days before submitting an emergency
39 regulation to the office, the adopting agency shall, except as
40 provided in paragraph (3), send a notice of the proposed emergency

1 action to every person who has filed a request for notice of
2 regulatory action with the agency. The notice shall include both
3 of the following:

4 (A) The specific language proposed to be adopted.

5 (B) The finding of emergency required by subdivision (b).

6 (3) An agency is not required to provide notice pursuant to
7 paragraph (2) if the emergency situation clearly poses such an
8 immediate, serious harm that delaying action to allow public
9 comment would be inconsistent with the public interest.

10 (b) (1) Except as provided in subdivision (c), if a state agency
11 makes a finding that the adoption of a regulation or order of repeal
12 is necessary to address an emergency, the regulation or order of
13 repeal may be adopted as an emergency regulation or order of
14 repeal.

15 (2) Any finding of an emergency shall include a written
16 statement that contains the information required by paragraphs (2)
17 to (6), inclusive, of subdivision (a) of Section 11346.5 and a
18 description of the specific facts demonstrating the existence of an
19 emergency and the need for immediate action, and demonstrating,
20 by substantial evidence, the need for the proposed regulation to
21 effectuate the statute being implemented, interpreted, or made
22 specific and to address only the demonstrated emergency. The
23 finding of emergency shall also identify each technical, theoretical,
24 and empirical study, report, or similar document, if any, upon
25 which the agency relies. The enactment of an urgency statute shall
26 not, in and of itself, constitute a need for immediate action.

27 A finding of emergency based only upon expediency,
28 convenience, best interest, general public need, or speculation,
29 shall not be adequate to demonstrate the existence of an emergency.
30 If the situation identified in the finding of emergency existed and
31 was known by the agency adopting the emergency regulation in
32 sufficient time to have been addressed through nonemergency
33 regulations adopted in accordance with the provisions of Article
34 5 (commencing with Section 11346), the finding of emergency
35 shall include facts explaining the failure to address the situation
36 through nonemergency regulations.

37 (3) The statement and the regulation or order of repeal shall be
38 filed immediately with the office.

39 (c) Notwithstanding any other provision of law, no emergency
40 regulation that is a building standard shall be filed, nor shall the

1 building standard be effective, unless the building standard is
2 submitted to the California Building Standards Commission, and
3 is approved and filed pursuant to Sections 18937 and 18938 of the
4 Health and Safety Code.

5 (d) The emergency regulation or order of repeal shall become
6 effective upon filing or upon any later date specified by the state
7 agency in a written instrument filed with, or as a part of, the
8 regulation or order of repeal.

9 (e) No regulation, amendment, or order of repeal initially
10 adopted as an emergency regulatory action shall remain in effect
11 more than 180 days unless the adopting agency has complied with
12 Sections 11346.2 to 11347.3, inclusive, either before adopting an
13 emergency regulation or within the 180-day period. The adopting
14 agency, prior to the expiration of the 180-day period, shall transmit
15 to the office for filing with the Secretary of State the adopted
16 regulation, amendment, or order of repeal, the rulemaking file,
17 and a certification that Sections 11346.2 to 11347.3, inclusive,
18 were complied with either before the emergency regulation was
19 adopted or within the 180-day period.

20 (f) If an emergency amendment or order of repeal is filed and
21 the adopting agency fails to comply with subdivision (e), the
22 regulation as it existed prior to the emergency amendment or order
23 of repeal shall thereupon become effective and after notice to the
24 adopting agency by the office shall be reprinted in the California
25 Code of Regulations.

26 (g) If a regulation is originally adopted and filed as an
27 emergency and the adopting agency fails to comply with
28 subdivision (e), this failure shall constitute a repeal of the
29 regulation and after notice to the adopting agency by the office,
30 shall be deleted.

31 (h) The office may approve not more than two readoptions, each
32 for a period not to exceed 90 days, of an emergency regulation
33 that is the same as or substantially equivalent to an emergency
34 regulation previously adopted by that agency. Readoption shall be
35 permitted only if the agency has made substantial progress and
36 proceeded with diligence to comply with subdivision (e).

37 SEC. 4. Article 5.5 (commencing with Section 11348.5) is
38 added to Chapter 3.5 of Part 1 of Division 3 of Title 2 of the
39 Government Code, to read:

1 Article 5.5. Legislative Review of Proposed Regulations

2
3 11348.5. (a) (1) Every state agency subject to Section 11346.9
4 shall submit the information described in Section 11346.9 to the
5 Joint Rules Committee of the Legislature 60 days prior to
6 submitting that information to the office pursuant to Section
7 11346.9.

8 (2) Every state agency required to submit a statement and
9 regulation or order of repeal to the office pursuant to paragraph
10 (3) of subdivision (b) of Section 11346.1 shall concurrently submit
11 the statement and regulation or order of repeal to the Joint Rules
12 Committee of the Legislature.

13 (b) The Joint Rules Committee of the Legislature may refer
14 information submitted pursuant to subdivision (a) to the appropriate
15 policy committee in each house of the Legislature, which may
16 review the information and take any of the following actions:

17 (1) Make recommendations regarding the regulatory action to
18 the agency. In the event that recommendations are made, they shall
19 not be binding and shall not preclude the operation of any other
20 provision of this chapter.

21 (2) Refer the regulatory action to the floor of either house, which
22 may reject the regulatory action by a resolution of that house, a
23 majority of the house concurring. If the regulatory action is rejected
24 pursuant to this paragraph, it shall be returned to the agency, and
25 may be rewritten and resubmitted within 120 days of the rejection.
26 If the regulatory action is not rejected pursuant to this paragraph,
27 it shall not be deemed approved and it shall not preclude the
28 application of any other provision of this chapter.

29 (3) Take no action regarding the regulatory action.

30 SEC. 5. Article 4.5 (commencing with Section 12097) is added
31 to Chapter 1.6 of Division 3 of Title 2 of the Government Code,
32 to read:

33
34 Article 4.5. California Innovation Hub Program

35
36 12097. (a) The California Innovation Hub Program, also
37 known as the “iHub Program,” is established within the office.

38 (b) The iHub Program shall be under the authority of the
39 director.

1 (c) The office may designate specific regions throughout the
2 state as an Innovation Hub, also known as an “iHub”, through a
3 competitive application process.

4 (d) An iHub shall, to the extent feasible, do all of the following:

5 (1) Work in collaboration with the activities of the office as its
6 primary statewide partner.

7 (2) Coordinate activities with the Employment Training Panel,
8 the California Workforce Investment Board, the California
9 Community Colleges Chancellor’s Office, the University of
10 California, the California State University, and other state and
11 local economic and workforce development programs.

12 (3) Provide assistance to the office relating to the attraction,
13 relocation, and expansion of businesses within the state and
14 international trade opportunities.

15 (4) Report to the office on the status of the state’s innovation
16 economy and provide general advice and support on policy issues
17 related to innovation, technology, entrepreneurship, and small
18 business assistance.

19 (e) The duties of an iHub shall include, but not be limited to,
20 all of the following:

21 (1) Provide specialized one-on-one counseling and technical
22 assistance in the areas of entrepreneurial business planning and
23 management, financing, and marketing for small businesses with
24 the greatest potential for local and in-state job retention, creation,
25 and future in-state expansion.

26 (2) Provide expert business startup advice to entrepreneurs,
27 including, but not limited to, advising on the tools for starting a
28 business and how to access to financing opportunities and other
29 key resources.

30 (3) Conduct business workshops, seminars, and conferences
31 with local partners, including, but not limited to, state universities,
32 community colleges, local governments, state and federal service
33 providers, private industry, workforce investment boards and
34 agencies, small business service agencies, economic development
35 organizations, and chambers of commerce.

36 (4) Provide services to link technology startups and businesses
37 to research and development institutions for the purposes of
38 transferring new technology to a new or an expanding business
39 sector, or accessing scientific knowledge and equipment.

1 12097.1. (a) The office shall collaborate with the Department
2 of General Services to identify unoccupied and underutilized real
3 property owned or leased by the state that may be allowed by the
4 Constitution and other applicable laws to be used as provided in
5 this section by the iHub program. Upon approval by the director,
6 identified property may be used by the iHub Program for purposes
7 including, but not limited to, assisting iHub regions to establish
8 proof of concept and research and development centers, incubators,
9 accelerators, and demonstration sites, thereby promoting and
10 enhancing the state's innovation economy, entrepreneur
11 communities, and bringing economic, environmental, or social
12 value to the state.

13 (b) In-lieu of a cash match, the fair market lease value of
14 nonoccupied or underutilized real property owned or leased by the
15 state as identified pursuant to subdivision (a) may be used as
16 in-kind matching funds to enhance an iHub proposal to increase
17 the likelihood of qualifying for federal funding opportunities.

18 12097.2. (a) In any year state owned or leased real property
19 is utilized pursuant to Section 12097.1, the office shall issue a
20 report to the Legislature by April 1 of the following year on the
21 use of the real property by office in relation to the activities and
22 performance goals of the iHub Program, in compliance with
23 Section 9795. The report shall also be posted on the office's
24 Internet Web site.

25 (b) To the extent the information is available, the report pursuant
26 to subdivision (a) shall also include the number of businesses
27 assisted and the manner in which they were assisted, the number
28 of employees employed by the businesses, the number of jobs
29 created, the number of jobs retained, the industry sectors of the
30 businesses assisted, identification of the partnerships with state,
31 federal, and local agencies that led to increased entrepreneurial
32 and innovation-based economic activity, and the amount of federal
33 grant funding received by the iHubs during the reporting period.

34 SEC. 6. Section 13997.6 of the Government Code is amended
35 to read:

36 13997.6. (a) The California Economic Development Fund is
37 hereby created in the State Treasury for the purpose of receiving
38 federal, state, local, and private economic development funds, and
39 receiving repayment of loans or grant proceeds and interest on
40 those loans or grants.

1 (b) ~~Upon appropriation by the Legislature, Notwithstanding~~
2 ~~Section 13340~~, moneys in the fund may be expended by the
3 Governor's Office of Business and Economic Development,
4 *without regard to fiscal year*, to provide matching funds for loans
5 or grants to public agencies, nonprofit organizations, and private
6 entities, and for other economic development purposes, consistent
7 with the purposes for which the moneys were received.

8 SEC. 7. Section 6377 is added to the Revenue and Taxation
9 Code, to read:

10 6377. (a) (1) On and after January 1, 2014, there are exempted
11 from the taxes imposed by this part the gross receipts from the sale
12 of, and the storage, use, or other consumption in this state of
13 tangible personal property purchased for use by a qualified person
14 to be used primarily in any stage of the manufacturing, processing,
15 refining, fabricating, or recycling of tangible personal property,
16 beginning at the point any raw materials are received by the
17 qualified person and introduced into the process and ending at the
18 point at which the manufacturing, processing, refining, fabricating,
19 or recycling has altered property to its completed form, including
20 packaging, if required.

21 (2) The exemption established by this section shall not apply
22 to the gross receipts from the sale of, or the storage, use, or other
23 consumption of, any of the following:

24 (A) Tangible personal property that is used primarily in
25 administration, general management, or marketing.

26 (B) Consumables with a useful life of less than one year.

27 (C) Furniture or inventory or equipment used in the extraction
28 process, or equipment used to store finished products that have
29 completed the manufacturing process.

30 (b) For purposes of this section:

31 (1) "Fabricating" means to make, build, create, produce, or
32 assemble components or property to work in a new or different
33 manner.

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

1 personal property. Manufacturing includes the generation of
2 electricity.

3 (3) “Primarily” means 50 percent or more of the time. For
4 purposes of subdivision (a), “primarily” means tangible personal
5 property used 50 percent or more of the time in an activity
6 described in subdivision (a).

7 (4) “Process” means the period beginning at the point at which
8 any raw materials are received by the qualified person and
9 introduced into the manufacturing, processing, refining, fabricating,
10 or recycling activity of the qualified person and ending at the point
11 at which the manufacturing, processing, refining, fabricating, or
12 recycling activity of the qualified person has altered tangible
13 personal property to its completed form, including packaging, if
14 required. Raw materials shall be considered to have been
15 introduced into the process when the raw materials are stored on
16 the same premises where the qualified person’s manufacturing,
17 processing, refining, fabricating, or recycling activity is conducted.
18 Raw materials that are stored on premises other than where the
19 qualified person’s manufacturing, processing, refining, fabricating,
20 or recycling activity is conducted, shall not be considered to have
21 been introduced into the manufacturing, processing, refining,
22 fabricating, or recycling process.

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

26 (6) “Qualified person” means either of the following:

27 (A) A person that is primarily engaged in those lines of business
28 classified in Industry Groups 3111 to 3399, inclusive, Industry
29 Group 5112, NAICS Industry 221119, or NAICS Industry 541711
30 of the North American Industry Classification System (NAICS)
31 published by the United States Office of Management and Budget
32 (OMB), 2007 edition.

33 (B) An affiliate of a person described in subparagraph (A)
34 provided that the affiliate is a member of the qualified person’s
35 unitary group for which a combined report is required to be filed
36 under Article 1 (commencing with Section 25101) of Chapter 17
37 of Part 11.

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

1 (8) “Tangible personal property” includes, but is not limited to,
2 all of the following:

3 (A) Machinery and equipment, including component parts and
4 contrivances such as belts, shafts, moving parts, and operating
5 structures.

6 (B) All equipment or devices used or required to operate,
7 control, regulate, or maintain the machinery, including, without
8 limitation, computers, data processing equipment, and computer
9 software, together with all repair and replacement parts with a
10 useful life of one or more years therefor, whether purchased
11 separately or in conjunction with a complete machine and
12 regardless of whether the machine or component parts are
13 assembled by the qualified person or another person.

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

17 (D) Special purpose buildings and foundations used as an
18 integral part of the manufacturing, processing, refining, or
19 fabricating process, or that constitute a research or storage facility
20 used during the manufacturing process. Buildings used solely for
21 warehousing purposes after completion of the manufacturing
22 process are not included.

23 (E) Tangible personal property used in recycling.

24 (c) An exemption shall not be allowed under this section unless
25 the purchaser furnishes the retailer with an exemption certificate,
26 completed in accordance with any instructions or regulations as
27 the board may prescribe, and the retailer retains the exemption
28 certificate in its records. The exemption certificate shall contain
29 the sales price of the tangible personal property, the sale of, or the
30 storage, use, or other consumption of which is exempt pursuant to
31 subdivision (a) and shall be furnished to the board upon request.

32 (d) Notwithstanding subdivision (a), the exemption provided
33 by this section shall not apply to any sale or use of tangible
34 personal property which, within one year from the date of purchase,
35 is either removed from California or converted from an exempt
36 use under subdivision (a) to some other use not qualifying for the
37 exemption or used in a manner not qualifying for exemption.

38 (e) If a purchaser certifies in writing to the seller that the tangible
39 personal property purchased without payment of the tax will be
40 used in a manner entitling the seller to regard the gross receipts

1 from the sale as exempt from the sales tax pursuant to this section,
2 and within one year from the date of purchase, the purchaser (1)
3 removes that tangible personal property outside California, (2)
4 converts that tangible personal property for use in a manner not
5 qualifying for the exemption, or (3) uses that tangible personal
6 property in a manner not qualifying for the exemption, the
7 purchaser shall be liable for payment of sales tax, with applicable
8 interest, as if the purchaser were a retailer making a retail sale of
9 the tangible personal property at the time the tangible personal
10 property is so removed, converted, or used, and the sales price of
11 the tangible personal property to the purchaser shall be deemed
12 the gross receipts from that retail sale.

13 (f) The exemption established by this section shall apply to a
14 lease of tangible personal property classified as a “continuing sale”
15 or “continuing purchase” in accordance with Section 6006.1 or
16 6010.1, and to the rentals payable pursuant to such a lease, provided
17 the lessee is a qualified person and the tangible personal property
18 is used in an activity described in subdivision (a).

19 (g) At the time necessary information technologies and
20 electronic data warehousing capabilities of the board are
21 sufficiently established, the board shall determine an efficient
22 means by which qualified persons may electronically apply for,
23 and receive, an exemption certificate that contains information
24 that would assist them in complying with this part with respect to
25 the exemption established by this section.

26 SEC. 8. Section 17052.12 of the Revenue and Taxation Code
27 is amended to read:

28 17052.12. For each taxable year beginning on or after January
29 1, 1987, there shall be allowed as a credit against the “net tax” (as
30 defined by Section 17039) for the taxable year an amount
31 determined in accordance with Section 41 of the Internal Revenue
32 Code, except as follows:

33 (a) For each taxable year beginning before January 1, 1997, the
34 reference to “20 percent” in Section 41(a)(1) of the Internal
35 Revenue Code is modified to read “8 percent.”

36 (b) (1) For each taxable year beginning on or after January 1,
37 1997, and before January 1, 1999, the reference to “20 percent”
38 in Section 41(a)(1) of the Internal Revenue Code is modified to
39 read “11 percent.”

1 (2) For each taxable year beginning on or after January 1, 1999,
2 and before January 1, 2000, the reference to “20 percent” in Section
3 41(a)(1) of the Internal Revenue Code is modified to read “12
4 percent.”

5 (3) For each taxable year beginning on or after January 1, 2000,
6 the reference to “20 percent” in Section 41(a)(1) of the Internal
7 Revenue Code is modified to read “15 percent.”

8 (4) *For each taxable year beginning on or after January 1,*
9 *2014, and before January 1, 2015, the reference to “20 percent”*
10 *in Section 41(a)(1) of the Internal Revenue Code shall not be*
11 *modified.*

12 (5) *For each taxable year beginning on or after January 1,*
13 *2015, and before January 1, 2016, the reference to “20 percent”*
14 *in Section 41(a)(1) of the Internal Revenue Code is modified to*
15 *read “25 percent.”*

16 (6) *For each taxable year beginning on or after January 1,*
17 *2016, the reference to “20 percent” in Section 41(a)(1) of the*
18 *Internal Revenue Code is modified to read “30 percent.”*

19 (c) Section 41(a)(2) of the Internal Revenue Code shall not
20 apply.

21 (d) “Qualified research” shall include only research conducted
22 in California.

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

27 (f) (1) With respect to any expense paid or incurred after the
28 operative date of Section 6378, Section 41(b)(1) of the Internal
29 Revenue Code is modified to exclude from the definition of
30 “qualified research expense” any amount paid or incurred for
31 tangible personal property that is eligible for the exemption from
32 sales or use tax provided by Section 6378.

33 (2) For each taxable year beginning on or after January 1, 1998,
34 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
35 Internal Revenue Code, relating to contract research expenses, is
36 modified to read “this part or Part 11 (commencing with Section
37 23001).”

38 (g) (1) For each taxable year beginning on or after January 1,
39 2000:

1 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of
2 the Internal Revenue Code is modified to read “one and forty-nine
3 hundredths of one percent.”

4 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of
5 the Internal Revenue Code is modified to read “one and
6 ninety-eight hundredths of one percent.”

7 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of
8 the Internal Revenue Code is modified to read “two and forty-eight
9 hundredths of one percent.”

10 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
11 election under Section 41(c)(4)(A) of the Internal Revenue Code
12 may be made for any taxable year of the taxpayer beginning on or
13 after January 1, 1998. That election shall apply to the taxable year
14 for which made and all succeeding taxable years unless revoked
15 with the consent of the Franchise Tax Board.

16 (3) Section 41(c)(7) of the Internal Revenue Code, relating to
17 gross receipts, is modified to take into account only those gross
18 receipts from the sale of property held primarily for sale to
19 customers in the ordinary course of the taxpayer’s trade or business
20 that is delivered or shipped to a purchaser within this state,
21 regardless of f.o.b. point or any other condition of the sale.

22 (4) Section 41(c)(5) of the Internal Revenue Code, relating to
23 election of alternative simplified credit, shall not apply.

24 (h) Section 41(h) of the Internal Revenue Code, relating to
25 termination, shall not apply.

26 (i) Section 41(g) of the Internal Revenue Code, relating to
27 special rule for passthrough of credit, is modified by each of the
28 following:

29 (1) The last sentence shall not apply.

30 (2) If the amount determined under Section 41(a) of the Internal
31 Revenue Code for any taxable year exceeds the limitation of
32 Section 41(g) of the Internal Revenue Code, that amount may be
33 carried over to other taxable years under the rules of subdivision
34 (e); except that the limitation of Section 41(g) of the Internal
35 Revenue Code shall be taken into account in each subsequent
36 taxable year.

37 (j) Section 41(a)(3) of the Internal Revenue Code shall not apply.

38 (k) Section 41(b)(3)(D) of the Internal Revenue Code, relating
39 to amounts paid to eligible small businesses, universities, and
40 federal laboratories, shall not apply.

1 (l) Section 41(f)(6), relating to energy research consortium,
2 shall not apply.

3 (m) For taxable years commencing on and after January 1,
4 2014, a taxpayer utilizing a credit pursuant to this section shall
5 report to the Franchise Tax Board, in a separate line item, the
6 following information:

7 (1) Total research and development expenditures made in the
8 tax year subject to the credit and the total research and
9 development expenditures not subject to the credit.

10 (2) For the total research and development expenditures subject
11 to the credit, a breakdown of the total amount of the credit
12 attributable to each of the following:

13 (A) Gross wages.

14 (B) Capital expenditures.

15 (C) Outside consultants and services.

16 SEC. 9. Section 17053.87 is added to the Revenue and Taxation
17 Code, to read:

18 17053.87. (a) For each taxable year beginning on or after
19 January 1, 2014, there shall be allowed to a qualified taxpayer as
20 a credit against the “net tax,” as defined in Section 17039, an
21 amount equal to 25 percent of the amount of a qualified
22 contribution that is made by a qualified taxpayer in that taxable
23 year.

24 (b) For purposes of this section, the following terms have the
25 following meanings:

26 (1) “Qualified contribution” means a monetary contribution by
27 a business entity to a postsecondary educational institution for
28 curriculum or research leading to job opportunities in the private
29 sector, or consultation services associated with the establishment
30 of curriculum or research leading to job opportunities in the private
31 sector, where the business entity and the postsecondary educational
32 institution agree that there is a substantial potential for the future
33 employment of students as a result of the contribution.

34 (2) “Qualified taxpayer” means a business entity that makes a
35 qualified contribution to a postsecondary educational institution.

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

1 (d) (1) The Franchise Tax Board may prescribe rules,
2 guidelines, or procedures necessary or appropriate to carry out the
3 purposes of this section.

4 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
5 Division 3 of Title 2 of the Government Code does not apply to
6 any standard, criterion, procedure, determination, rule, notice, or
7 guideline established or issued by the Franchise Tax Board
8 pursuant to this section.

9 SEC. 10. Section 23609 of the Revenue and Taxation Code is
10 amended to read:

11 23609. For each taxable year beginning on or after January 1,
12 1987, there shall be allowed as a credit against the "tax" (as defined
13 by Section 23036) an amount determined in accordance with
14 Section 41 of the Internal Revenue Code, except as follows:

15 (a) For each taxable year beginning before January 1, 1997,
16 both of the following modifications shall apply:

17 (1) The reference to "20 percent" in Section 41(a)(1) of the
18 Internal Revenue Code is modified to read "8 percent."

19 (2) The reference to "20 percent" in Section 41(a)(2) of the
20 Internal Revenue Code is modified to read "12 percent."

21 (b) (1) For each taxable year beginning on or after January 1,
22 1997, and before January 1, 1999, both of the following
23 modifications shall apply:

24 (A) The reference to "20 percent" in Section 41(a)(1) of the
25 Internal Revenue Code is modified to read "11 percent."

26 (B) The reference to "20 percent" in Section 41(a)(2) of the
27 Internal Revenue Code is modified to read "24 percent."

28 (2) For each taxable year beginning on or after January 1, 1999,
29 and before January 1, 2000, both of the following shall apply:

30 (A) The reference to "20 percent" in Section 41(a)(1) of the
31 Internal Revenue Code is modified to read "12 percent."

32 (B) The reference to "20 percent" in Section 41(a)(2) of the
33 Internal Revenue Code is modified to read "24 percent."

34 (3) For each taxable year beginning on or after January 1, 2000,
35 both of the following shall apply:

36 (A) The reference to "20 percent" in Section 41(a)(1) of the
37 Internal Revenue Code is modified to read "15 percent."

38 (B) The reference to "20 percent" in Section 41(a)(2) of the
39 Internal Revenue Code is modified to read "24 percent."

1 (4) For each taxable year beginning on or after January 1,
2 2014, and before January 1, 2015, both of the following shall
3 apply:

4 (A) The reference to “20 percent” in Section 41(a)(1) of the
5 Internal Revenue Code shall not be modified.

6 (B) The reference to “20 percent” in Section 41(a)(2) of the
7 Internal Revenue Code is modified to read “29 percent.”

8 (5) For each taxable year beginning on or after January 1,
9 2015, and before January 1, 2016, both of the following shall
10 apply:

11 (A) The reference to “20 percent” in Section 41(a)(1) of the
12 Internal Revenue Code is modified to read “25 percent.”

13 (B) The reference to “20 percent” in Section 41(a)(2) of the
14 Internal Revenue Code is modified to read “34 percent.”

15 (6) For each taxable year beginning on or after January 1,
16 2016, and before January 1, 2017, both of the following shall
17 apply:

18 (A) The reference to “20 percent” in Section 41(a)(1) of the
19 Internal Revenue Code is modified to read “30 percent.”

20 (B) The reference to “20 percent” in Section 41(a)(2) of the
21 Internal Revenue Code is modified to read “39 percent.”

22 (7) For each taxable year beginning on or after January 1,
23 2017, and before January 1, 2018, both of the following shall
24 apply:

25 (A) The reference to “20 percent” in Section 41(a)(1) of the
26 Internal Revenue Code is modified to read “35 percent.”

27 (B) The reference to “20 percent” in Section 41(a)(2) of the
28 Internal Revenue Code is modified to read “40 percent.”

29 (8) For each taxable year beginning on or after January 1,
30 2018, both of the following shall apply:

31 (A) The reference to “20 percent” in Section 41(a)(1) of the
32 Internal Revenue Code is modified to read “40 percent.”

33 (B) The reference to “20 percent” in Section 41(a)(2) of the
34 Internal Revenue Code is modified to read “25 percent.”

35 (c) (1) With respect to any expense paid or incurred after the
36 operative date of Section 6378, Section 41(b)(1) of the Internal
37 Revenue Code is modified to exclude from the definition of
38 “qualified research expense” any amount paid or incurred for
39 tangible personal property that is eligible for the exemption from
40 sales or use tax provided by Section 6378.

1 (2) “Qualified research” and “basic research” shall include only
2 research conducted in California.

3 (d) The provisions of Section 41(e)(7)(A) of the Internal
4 Revenue Code, *Code* shall be modified so that “basic research,”
5 for purposes of this section, includes any basic or applied research
6 including scientific inquiry or original investigation for the
7 advancement of scientific or engineering knowledge or the
8 improved effectiveness of commercial products, except that the
9 term does not include any of the following:

- 10 (1) Basic research conducted outside California.
11 (2) Basic research in the social sciences, arts, or humanities.
12 (3) Basic research for the purpose of improving a commercial
13 product if the improvements relate to style, taste, cosmetic, or
14 seasonal design factors.
15 (4) Any expenditure paid or incurred for the purpose of
16 ascertaining the existence, location, extent, or quality of any deposit
17 of ore or other mineral (including oil and gas).

18 (e) (1) In the case of a taxpayer engaged in any
19 biopharmaceutical research activities that are described in codes
20 2833 to 2836, inclusive, or any research activities that are described
21 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard
22 Industrial Classification (SIC) Manual published by the United
23 States Office of Management and Budget, 1987 edition, or any
24 other biotechnology research and development activities, the
25 provisions of Section 41(e)(6) of the Internal Revenue Code shall
26 be modified to include both of the following:

27 (A) A qualified organization as described in Section
28 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an
29 institution of higher education as described in Section 3304(f) of
30 the Internal Revenue Code.

31 (B) A charitable research hospital owned by an organization
32 that is described in Section 501(c)(3) of the Internal Revenue Code,
33 is exempt from taxation under Section 501(a) of the Internal
34 Revenue Code, is not a private foundation, is designated a
35 “specialized laboratory cancer center,” and has received Clinical
36 Cancer Research Center status from the National Cancer Institute.

37 (2) For purposes of this subdivision:

38 (A) “Biopharmaceutical research activities” means those
39 activities that use organisms or materials derived from organisms,
40 and their cellular, subcellular, or molecular components, in order

1 to provide pharmaceutical products for human or animal
2 therapeutics and diagnostics. Biopharmaceutical activities make
3 use of living organisms to make commercial products, as opposed
4 to pharmaceutical activities that make use of chemical compounds
5 to produce commercial products.

6 (B) “Other biotechnology research and development activities”
7 means research and development activities consisting of the
8 application of recombinant DNA technology to produce
9 commercial products, as well as research and development
10 activities regarding pharmaceutical delivery systems designed to
11 provide a measure of control over the rate, duration, and site of
12 pharmaceutical delivery.

13 (f) In the case where the credit allowed by this section exceeds
14 the “tax,” the excess may be carried over to reduce the “tax” in
15 the following year, and succeeding years if necessary, until the
16 credit has been exhausted.

17 (g) For each taxable year beginning on or after January 1, 1998,
18 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
19 Internal Revenue Code, relating to contract research expenses, is
20 modified to read “this part or Part 10 (commencing with Section
21 17001).”

22 (h) (1) For each taxable year beginning on or after January 1,
23 2000:

24 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of
25 the Internal Revenue Code is modified to read “one and forty-nine
26 hundredths of one percent.”

27 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of
28 the Internal Revenue Code is modified to read “one and
29 ninety-eight hundredths of one percent.”

30 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of
31 the Internal Revenue Code is modified to read “two and forty-eight
32 hundredths of one percent.”

33 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
34 election under Section 41(c)(4)(A) of the Internal Revenue Code
35 may be made for any taxable year of the taxpayer beginning on or
36 after January 1, 1998. That election shall apply to the taxable year
37 for which made and all succeeding taxable years unless revoked
38 with the consent of the Franchise Tax Board.

39 (3) Section 41(c)(7) of the Internal Revenue Code, relating to
40 gross receipts, is modified to take into account only those gross

1 receipts from the sale of property held primarily for sale to
2 customers in the ordinary course of the taxpayer's trade or business
3 that is delivered or shipped to a purchaser within this state,
4 regardless of f.o.b. point or any other condition of the sale.

5 (4) Section 41(c)(5) of the Internal Revenue Code, relating to
6 election of the alternative simplified credit, shall not apply.

7 (i) Section 41(h) of the Internal Revenue Code, relating to
8 termination, shall not apply.

9 (j) Section 41(g) of the Internal Revenue Code, relating to
10 special rule for passthrough of credit, is modified by each of the
11 following:

12 (1) The last sentence shall not apply.

13 (2) If the amount determined under Section 41(a) of the Internal
14 Revenue Code for any taxable year exceeds the limitation of
15 Section 41(g) of the Internal Revenue Code, that amount may be
16 carried over to other taxable years under the rules of subdivision
17 (f), except that the limitation of Section 41(g) of the Internal
18 Revenue Code shall be taken into account in each subsequent
19 taxable year.

20 (k) Section 41(a)(3) of the Internal Revenue Code shall not
21 apply.

22 (l) Section 41(b)(3)(D) of the Internal Revenue Code, relating
23 to amounts paid to eligible small businesses, universities, and
24 federal laboratories, shall not apply.

25 (m) Section 41(f)(6) of the Internal Revenue Code, relating to
26 energy research consortium, shall not apply.

27 (n) *For taxable years commencing on and after January 1, 2014,*
28 *a taxpayer utilizing a credit pursuant to this section shall report*
29 *to the Franchise Tax Board, in a separate line item, the following*
30 *information:*

31 (1) *Total research and development expenditures made in the*
32 *tax year subject to the credit and the total research and*
33 *development expenditures not subject to the credit.*

34 (2) *For the total research and development expenditures subject*
35 *to the credit, a breakdown of the total amount of the credit*
36 *attributable to each of the following:*

37 (A) *Gross wages.*

38 (B) *Capital expenditures.*

39 (C) *Outside consultants and services.*

1 SEC. 11. Section 23687 is added to the Revenue and Taxation
2 Code, to read:

3 23687. (a) For each taxable year beginning on or after January
4 1, 2014, there shall be allowed to a qualified taxpayer as a credit
5 against the “tax,” as defined in Section 23036, an amount equal
6 to 25 percent of the amount of a qualified contribution that is made
7 by a qualified taxpayer in that taxable year.

8 (b) For purposes of this section, the following terms have the
9 following meanings:

10 (1) “Qualified contribution” means a monetary contribution by
11 a business entity to a postsecondary educational institution for
12 curriculum or research leading to job opportunities in the private
13 sector, or consultation services associated with the establishment
14 of curriculum or research leading to job opportunities in the private
15 sector, where the business entity and the postsecondary educational
16 institution agree that there is a substantial potential for the future
17 employment of students as a result of the contribution.

18 (2) “Qualified taxpayer” means a business entity that makes a
19 qualified contribution to a postsecondary educational institution.

20 (c) In the case where the credit allowed by this section exceeds
21 the “tax,” the excess may be carried over to reduce the “tax” in
22 the following taxable year, and succeeding taxable years if
23 necessary, until the credit is exhausted.

24 (d) (1) The Franchise Tax Board may prescribe rules,
25 guidelines, or procedures necessary or appropriate to carry out the
26 purposes of this section.

27 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
28 Division 3 of Title 2 of the Government Code does not apply to
29 any standard, criterion, procedure, determination, rule, notice, or
30 guideline established or issued by the Franchise Tax Board
31 pursuant to this section.

32 SEC. 12. The provisions of this act are severable. If any
33 provision of this act or its application is held invalid, that invalidity
34 shall not affect other provisions or applications that can be given
35 effect without the invalid provision or application.

36 SEC. 13. Notwithstanding Section 2230 of the Revenue and
37 Taxation Code, no appropriation is made by this act and the state
38 shall not reimburse any local agency for any sales and use tax
39 revenues lost by it under this act.

1 SEC. 14. This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety within
3 the meaning of Article IV of the Constitution and shall go into
4 immediate effect. The facts constituting the necessity are:

5 In order to support the innovation and entrepreneurial activity
6 that is critical to the state's economic growth and prosperity, it is
7 necessary that this act take effect immediately.

O