

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 653

Introduced by Assembly Member V. Manuel Pérez

February 21, 2013

An act to amend ~~Sections 11346.1 and~~ *Section* 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~~ *economic development*, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 653, as amended, V. Manuel Pérez. ~~State government.~~ *Economic development.*

(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)

(1) 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)

(2) 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)

(3) 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)~~

~~(4) This bill would provide that the provisions of this bill are severable.~~

~~(6)~~

(5) 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)~~

~~(6) 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~~ years, has declined from the
5 sixth 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
11 grapple with too few revenues to meet a continuing demand for
12 public services.

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

19 (d) California needs to compete globally. It needs to expand its
20 leadership as an exporter of goods. California needs to recognize
21 its biggest asset in combating a fatigued economy is its innovative
22 human capital; it needs to recognize that the private sector, through
23 the “~~Innovation Economy~~” *Economy*,” must be incentivized to
24 reach new heights and growth potential. State and local government
25 need to be the Innovation Economy’s partner and not a roadblock
26 to success.

27 (e) California is uniquely positioned to unleash its full economic
28 potential. We see on a daily basis the convergence of innovative
29 technologies being integrated into our daily lives that most
30 Californians take for granted, because these technologies were
31 invented and developed in California: new advancements in
32 biopharmaceuticals that improve people’s lives on a daily basis,
33 advancements in smart phone technology, and Internet Web sites
34 that allow Californians to be connected to the world have
35 predominately been developed in California.

36 (f) California needs to invest in the Innovation Economy by
37 eliminating roadblocks in state law and regulation and developing
38 a tax system that rewards capital expenditures in order to ensure

1 that the private sector will invest its financial capital in combination
2 with the intellectual capital that California has to offer through its
3 education system, in particular its universities.

4 SEC. 3. Section 11346.1 of the Government Code is amended
5 to read:

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

10 ~~(2) At least five working days before submitting an emergency~~
11 ~~regulation to the office, the adopting agency shall, except as~~
12 ~~provided in paragraph (3), send a notice of the proposed emergency~~
13 ~~action to every person who has filed a request for notice of~~
14 ~~regulatory action with the agency. The notice shall include both~~
15 ~~of the following:~~

16 ~~(A) The specific language proposed to be adopted.~~

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

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

22 ~~(b) (1) Except as provided in subdivision (c), if a state agency~~
23 ~~makes a finding that the adoption of a regulation or order of repeal~~
24 ~~is necessary to address an emergency, the regulation or order of~~
25 ~~repeal may be adopted as an emergency regulation or order of~~
26 ~~repeal.~~

27 ~~(2) Any finding of an emergency shall include a written~~
28 ~~statement that contains the information required by paragraphs (2)~~
29 ~~to (6), inclusive, of subdivision (a) of Section 11346.5 and a~~
30 ~~description of the specific facts demonstrating the existence of an~~
31 ~~emergency and the need for immediate action, and demonstrating,~~
32 ~~by substantial evidence, the need for the proposed regulation to~~
33 ~~effectuate the statute being implemented, interpreted, or made~~
34 ~~specific and to address only the demonstrated emergency. The~~
35 ~~finding of emergency shall also identify each technical, theoretical,~~
36 ~~and empirical study, report, or similar document, if any, upon~~
37 ~~which the agency relies. The enactment of an urgency statute shall~~
38 ~~not, in and of itself, constitute a need for immediate action.~~

39 ~~A finding of emergency based only upon expediency,~~
40 ~~convenience, best interest, general public need, or speculation,~~

1 shall not be adequate to demonstrate the existence of an emergency.
2 If the situation identified in the finding of emergency existed and
3 was known by the agency adopting the emergency regulation in
4 sufficient time to have been addressed through nonemergency
5 regulations adopted in accordance with the provisions of Article
6 5 (commencing with Section 11346), the finding of emergency
7 shall include facts explaining the failure to address the situation
8 through nonemergency regulations.

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

11 (e) Notwithstanding any other provision of law, no emergency
12 regulation that is a building standard shall be filed, nor shall the
13 building standard be effective, unless the building standard is
14 submitted to the California Building Standards Commission, and
15 is approved and filed pursuant to Sections 18937 and 18938 of the
16 Health and Safety Code.

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

21 (e) No regulation, amendment, or order of repeal initially
22 adopted as an emergency regulatory action shall remain in effect
23 more than 180 days unless the adopting agency has complied with
24 Sections 11346.2 to 11347.3, inclusive, either before adopting an
25 emergency regulation or within the 180-day period. The adopting
26 agency, prior to the expiration of the 180-day period, shall transmit
27 to the office for filing with the Secretary of State the adopted
28 regulation, amendment, or order of repeal, the rulemaking file,
29 and a certification that Sections 11346.2 to 11347.3, inclusive,
30 were complied with either before the emergency regulation was
31 adopted or within the 180-day period.

32 (f) If an emergency amendment or order of repeal is filed and
33 the adopting agency fails to comply with subdivision (e), the
34 regulation as it existed prior to the emergency amendment or order
35 of repeal shall thereupon become effective and after notice to the
36 adopting agency by the office shall be reprinted in the California
37 Code of Regulations.

38 (g) If a regulation is originally adopted and filed as an
39 emergency and the adopting agency fails to comply with
40 subdivision (e), this failure shall constitute a repeal of the

1 regulation and after notice to the adopting agency by the office,
2 shall be deleted.

3 (h) ~~The office may approve not more than two readoptions, each~~
4 ~~for a period not to exceed 90 days, of an emergency regulation~~
5 ~~that is the same as or substantially equivalent to an emergency~~
6 ~~regulation previously adopted by that agency. Readoption shall be~~
7 ~~permitted only if the agency has made substantial progress and~~
8 ~~proceeded with diligence to comply with subdivision (c).~~

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

12

13 ~~Article 5.5. Legislative Review of Proposed Regulations~~

14

15 ~~11348.5. (a) (1) Every state agency subject to Section 11346.9~~
16 ~~shall submit the information described in Section 11346.9 to the~~
17 ~~Joint Rules Committee of the Legislature 60 days prior to~~
18 ~~submitting that information to the office pursuant to Section~~
19 ~~11346.9.~~

20 ~~(2) Every state agency required to submit a statement and~~
21 ~~regulation or order of repeal to the office pursuant to paragraph~~
22 ~~(3) of subdivision (b) of Section 11346.1 shall concurrently submit~~
23 ~~the statement and regulation or order of repeal to the Joint Rules~~
24 ~~Committee of the Legislature.~~

25 ~~(b) The Joint Rules Committee of the Legislature may refer~~
26 ~~information submitted pursuant to subdivision (a) to the appropriate~~
27 ~~policy committee in each house of the Legislature, which may~~
28 ~~review the information and take any of the following actions:~~

29 ~~(1) Make recommendations regarding the regulatory action to~~
30 ~~the agency. In the event that recommendations are made, they shall~~
31 ~~not be binding and shall not preclude the operation of any other~~
32 ~~provision of this chapter.~~

33 ~~(2) Refer the regulatory action to the floor of either house, which~~
34 ~~may reject the regulatory action by a resolution of that house, a~~
35 ~~majority of the house concurring. If the regulatory action is rejected~~
36 ~~pursuant to this paragraph, it shall be returned to the agency, and~~
37 ~~may be rewritten and resubmitted within 120 days of the rejection.~~
38 ~~If the regulatory action is not rejected pursuant to this paragraph,~~
39 ~~it shall not be deemed approved and it shall not preclude the~~
40 ~~application of any other provision of this chapter.~~

1 ~~(3) Take no action regarding the regulatory action.~~
 2 ~~SEC. 5.~~
 3 ~~SEC. 3.~~ Article 4.5 (commencing with Section 12097) is added
 4 to Chapter 1.6 of ~~Division 3 of Title~~ *Part 2 of Division 3 of Title*
 5 *2 of the Government Code*, to read:

6
 7 Article 4.5. California Innovation Hub Program

8
 9 12097. (a) The California Innovation Hub Program, also
 10 known as the “iHub Program,” is established within the office.

11 (b) The iHub Program shall be under the authority of the
 12 director.

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

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

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

19 (2) Coordinate activities with the Employment Training Panel,
 20 the California Workforce Investment Board, the California
 21 Community Colleges Chancellor’s Office, the University of
 22 California, the California State University, and other state and
 23 local economic and workforce development programs.

24 (3) Provide assistance to the office relating to the attraction,
 25 relocation, and expansion of businesses within the state and
 26 international trade opportunities.

27 (4) Report to the office on the status of the state’s innovation
 28 economy and provide general advice and support on policy issues
 29 related to innovation, technology, entrepreneurship, and small
 30 business assistance.

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

33 (1) Provide specialized one-on-one counseling and technical
 34 assistance in the areas of entrepreneurial business planning and
 35 management, financing, and marketing for small businesses with
 36 the greatest potential for local and in-state job retention, creation,
 37 and future in-state expansion.

38 (2) Provide expert business startup advice to entrepreneurs,
 39 including, but not limited to, advising on the tools for starting a

1 business and how to access to financing opportunities and other
2 key resources.

3 (3) Conduct business workshops, seminars, and conferences
4 with local partners, including, but not limited to, state universities,
5 community colleges, local governments, state and federal service
6 providers, private industry, workforce investment boards and
7 agencies, small business service agencies, economic development
8 organizations, and chambers of commerce.

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

13 12097.1. (a) The office shall collaborate with the Department
14 of General Services to identify unoccupied and underutilized real
15 property owned or leased by the state that may be allowed by the
16 Constitution and other applicable laws to be used as provided in
17 this section by the ~~iHub program~~ *Program*. Upon approval by the
18 director, identified property may be used by the iHub Program for
19 purposes including, but not limited to, assisting iHub regions to
20 establish proof of concept and research and development centers,
21 incubators, accelerators, and demonstration sites, thereby
22 promoting and enhancing the state's innovation economy,
23 entrepreneur communities, and bringing economic, environmental,
24 or social value to the state.

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

30 12097.2. (a) In any year state owned or leased real property
31 is utilized pursuant to Section 12097.1, the office shall issue a
32 report to the Legislature by April 1 of the following year on the
33 use of the real property by office in relation to the activities and
34 performance goals of the iHub Program, in compliance with
35 Section 9795. The report shall also be posted on the office's
36 Internet Web site.

37 (b) To the extent the information is available, the report pursuant
38 to subdivision (a) shall also include the number of businesses
39 assisted and the manner in which they were assisted, the number
40 of employees employed by the businesses, the number of jobs

1 created, the number of jobs retained, the industry sectors of the
2 businesses assisted, identification of the partnerships with state,
3 federal, and local agencies that led to increased entrepreneurial
4 and innovation-based economic activity, and the amount of federal
5 grant funding received by the iHubs during the reporting period.

6 ~~SEC. 6.~~

7 *SEC. 4.* Section 13997.6 of the Government Code is amended
8 to read:

9 13997.6. (a) The California Economic Development Fund is
10 hereby created in the State Treasury for the purpose of receiving
11 federal, state, local, and private economic development funds, and
12 receiving repayment of loans or grant proceeds and interest on
13 those loans or grants.

14 (b) Notwithstanding Section 13340, moneys in the fund may
15 be expended by the Governor’s Office of Business and Economic
16 Development, without regard to fiscal year, to provide matching
17 funds for loans or grants to public agencies, nonprofit
18 organizations, and private entities, and for other economic
19 development purposes, consistent with the purposes for which the
20 moneys were received.

21 ~~SEC. 7.~~

22 *SEC. 5.* Section 6377 is added to the Revenue and Taxation
23 Code, to read:

24 6377. (a) (1) On and after January 1, 2014, there are exempted
25 from the taxes imposed by this part the gross receipts from the sale
26 of, and the storage, use, or other consumption in this state ~~of~~ of,
27 tangible personal property purchased for use by a qualified person
28 to be used primarily in any stage of the manufacturing, processing,
29 refining, fabricating, or recycling of tangible personal property,
30 beginning at the point any raw materials are received by the
31 qualified person and introduced into the process and ending at the
32 point at which the manufacturing, processing, refining, fabricating,
33 or recycling has altered property to its completed form, including
34 packaging, if required.

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

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

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

1 (C) Furniture or inventory or equipment used in the extraction
2 process, or equipment used to store finished products that have
3 completed the manufacturing process.

4 (b) For purposes of this section:

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

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

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

21 (4) “Process” means the period beginning at the point at which
22 any raw materials are received by the qualified person and
23 introduced into the manufacturing, processing, refining, fabricating,
24 or recycling activity of the qualified person and ending at the point
25 at which the manufacturing, processing, refining, fabricating, or
26 recycling activity of the qualified person has altered tangible
27 personal property to its completed form, including packaging, if
28 required. Raw materials shall be considered to have been
29 introduced into the process when the raw materials are stored on
30 the same premises where the qualified person’s manufacturing,
31 processing, refining, fabricating, or recycling activity is conducted.
32 Raw materials that are stored on premises other than where the
33 qualified person’s manufacturing, processing, refining, fabricating,
34 or recycling activity is conducted, shall not be considered to have
35 been introduced into the manufacturing, processing, refining,
36 fabricating, or recycling process.

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

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

1 (A) A person that is primarily engaged in those lines of business
2 classified in Industry Groups 3111 to 3399, inclusive, Industry
3 Group 5112, NAICS Industry ~~221119~~, or NAICS Industry 221119
4 or 541711 of the North American Industry Classification System
5 (NAICS) published by the United States Office of Management
6 and Budget (OMB), 2007 edition.

7 (B) An affiliate of a person described in subparagraph (A)
8 provided that the affiliate is a member of the qualified person's
9 unitary group for which a combined report is required to be filed
10 under Article 1 (commencing with Section 25101) of Chapter 17
11 of Part 11.

12 (7) "Refining" means the process of converting a natural
13 resource to an intermediate or finished product.

14 (8) "Tangible personal property" includes, but is not limited to,
15 all of the following:

16 (A) Machinery and equipment, including component parts and
17 contrivances such as belts, shafts, moving parts, and operating
18 structures.

19 (B) All equipment or devices used or required to operate,
20 control, regulate, or maintain the machinery, including, without
21 limitation, computers, data processing equipment, and computer
22 software, together with all repair and replacement parts with a
23 useful life of one or more years therefor, whether purchased
24 separately or in conjunction with a complete machine and
25 regardless of whether the machine or component parts are
26 assembled by the qualified person or another person.

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

30 (D) Special purpose buildings and foundations used as an
31 integral part of the manufacturing, processing, refining, or
32 fabricating process, or that constitute a research or storage facility
33 used during the manufacturing process. Buildings used solely for
34 warehousing purposes after completion of the manufacturing
35 process are not included.

36 (E) Tangible personal property used in recycling.

37 (c) An exemption shall not be allowed under this section unless
38 the purchaser furnishes the retailer with an exemption certificate,
39 completed in accordance with any instructions or regulations as
40 the board may prescribe, and the retailer retains the exemption

1 certificate in its records. The exemption certificate shall contain
2 the sales price of the tangible personal property, the sale of, or the
3 storage, use, or other consumption ~~of~~ of, which is exempt pursuant
4 to subdivision (a) and shall be furnished to the board upon request.

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

11 (e) If a purchaser certifies in writing to the seller that the tangible
12 personal property purchased without payment of the tax will be
13 used in a manner entitling the seller to regard the gross receipts
14 from the sale as exempt from the sales tax pursuant to this section,
15 and within one year from the date of purchase, the purchaser (1)
16 removes that tangible personal property outside California, (2)
17 converts that tangible personal property for use in a manner not
18 qualifying for the exemption, or (3) uses that tangible personal
19 property in a manner not qualifying for the exemption, the
20 purchaser shall be liable for payment of sales tax, with applicable
21 interest, as if the purchaser were a retailer making a retail sale of
22 the tangible personal property at the time the tangible personal
23 property is so removed, converted, or used, and the sales price of
24 the tangible personal property to the purchaser shall be deemed
25 the gross receipts from that retail sale.

26 (f) The exemption established by this section shall apply to a
27 lease of tangible personal property classified as a “continuing sale”
28 or “continuing purchase” in accordance with Section 6006.1 or
29 6010.1, and to the rentals payable pursuant to such a lease, provided
30 the lessee is a qualified person and the tangible personal property
31 is used in an activity described in subdivision (a).

32 (g) At the time necessary information technologies and
33 electronic data warehousing capabilities of the board are
34 sufficiently established, the board shall determine an efficient
35 means by which qualified persons may electronically apply for,
36 and receive, an exemption certificate that contains information
37 that would assist them in complying with this part with respect to
38 the exemption established by this section.

1 ~~SEC. 8.~~

2 *SEC. 6.* Section 17052.12 of the Revenue and Taxation Code
3 is amended to read:

4 17052.12. For each taxable year beginning on or after January
5 1, 1987, there shall be allowed as a credit against the “net tax” (as
6 defined by Section 17039) for the taxable year an amount
7 determined in accordance with Section 41 of the Internal Revenue
8 Code, except as follows:

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

12 (b) (1) For each taxable year beginning on or after January 1,
13 1997, and before January 1, 1999, the reference to “20 percent”
14 in Section 41(a)(1) of the Internal Revenue Code is modified to
15 read “11 percent.”

16 (2) For each taxable year beginning on or after January 1, 1999,
17 and before January 1, 2000, the reference to “20 percent” in Section
18 41(a)(1) of the Internal Revenue Code is modified to read “12
19 percent.”

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

23 (4) For each taxable year beginning on or after January 1, 2014,
24 and before January 1, 2015, the reference to “20 percent” in Section
25 41(a)(1) of the Internal Revenue Code ~~shall not be modified.~~ *is*
26 *modified to read “18 percent.”*

27 (5) For each taxable year beginning on or after January 1, 2015,
28 and before January 1, 2016, the reference to “20 percent” in Section
29 41(a)(1) of the Internal Revenue Code is modified to read ~~“25~~
30 ~~percent.”~~ *“21 percent.”*

31 (6) For each taxable year beginning on or after January 1, 2016,
32 *and before January 1, 2017*, the reference to “20 percent” in
33 Section 41(a)(1) of the Internal Revenue Code is modified to read
34 ~~“30 percent.”~~ *“24 percent.”*

35 (7) *For each taxable year beginning on or after January 1,*
36 *2017, and before January 1, 2018, the reference to “20 percent”*
37 *in Section 41(a)(1) of the Internal Revenue Code is modified to*
38 *read “27 percent.”*

1 (8) *For each taxable year beginning on or after January 1,*
2 *2018, the reference to “20 percent” in Section 41(a)(1) of the*
3 *Internal Revenue Code is modified to read “30 percent.”*

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

6 (d) “Qualified research” shall include only research conducted
7 in California.

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

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

18 (2) For each taxable year beginning on or after January 1, 1998,
19 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
20 Internal Revenue Code, relating to contract research expenses, is
21 modified to read “this part or Part 11 (commencing with Section
22 23001).”

23 (g) (1) For each taxable year beginning on or after January 1,
24 2000:

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

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

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

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

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

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

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

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

14 (1) The last sentence shall not apply.

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

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

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

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

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

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

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

38 ~~(A) Gross wages.~~

39 ~~(B) Capital expenditures.~~

40 ~~(C) Outside consultants and services.~~

1 ~~SEC. 9.~~

2 *SEC. 7.* Section 17053.87 is added to the Revenue and Taxation
3 Code, to read:

4 17053.87. (a) For each taxable year beginning on or after
5 January 1, 2014, there shall be allowed to a qualified taxpayer as
6 a credit against the “net tax,” as defined in Section 17039, an
7 amount equal to 25 percent of the amount of a qualified
8 contribution that is made by a qualified taxpayer in that taxable
9 year.

10 (b) For purposes of this section, the following terms have the
11 following meanings:

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

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

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

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

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

34 ~~SEC. 10.~~

35 *SEC. 8.* Section 23609 of the Revenue and Taxation Code is
36 amended to read:

37 23609. For each taxable year beginning on or after January 1,
38 1987, there shall be allowed as a credit against the “tax” (as defined
39 by Section 23036) an amount determined in accordance with
40 Section 41 of the Internal Revenue Code, except as follows:

- 1 (a) For each taxable year beginning before January 1, 1997,
 2 both of the following modifications shall apply:
- 3 (1) The reference to “20 percent” in Section 41(a)(1) of the
 4 Internal Revenue Code is modified to read “8 percent.”
- 5 (2) The reference to “20 percent” in Section 41(a)(2) of the
 6 Internal Revenue Code is modified to read “12 percent.”
- 7 (b) (1) For each taxable year beginning on or after January 1,
 8 1997, and before January 1, 1999, both of the following
 9 modifications shall apply:
- 10 (A) The reference to “20 percent” in Section 41(a)(1) of the
 11 Internal Revenue Code is modified to read “11 percent.”
- 12 (B) The reference to “20 percent” in Section 41(a)(2) of the
 13 Internal Revenue Code is modified to read “24 percent.”
- 14 (2) For each taxable year beginning on or after January 1, 1999,
 15 and before January 1, 2000, both of the following shall apply:
- 16 (A) The reference to “20 percent” in Section 41(a)(1) of the
 17 Internal Revenue Code is modified to read “12 percent.”
- 18 (B) The reference to “20 percent” in Section 41(a)(2) of the
 19 Internal Revenue Code is modified to read “24 percent.”
- 20 (3) For each taxable year beginning on or after January 1, 2000,
 21 both of the following shall apply:
- 22 (A) The reference to “20 percent” in Section 41(a)(1) of the
 23 Internal Revenue Code is modified to read “15 percent.”
- 24 (B) The reference to “20 percent” in Section 41(a)(2) of the
 25 Internal Revenue Code is modified to read “24 percent.”
- 26 (4) For each taxable year beginning on or after January 1, 2014,
 27 and before January 1, 2015, both of the following shall apply:
- 28 (A) The reference to “20 percent” in Section 41(a)(1) of the
 29 Internal Revenue Code shall not be modified.
- 30 (B) The reference to “20 percent” in Section 41(a)(2) of the
 31 Internal Revenue Code is modified to read “29 percent.”
- 32 (5) For each taxable year beginning on or after January 1, 2015,
 33 and before January 1, 2016, both of the following shall apply:
- 34 (A) The reference to “20 percent” in Section 41(a)(1) of the
 35 Internal Revenue Code is modified to read “25 percent.”
- 36 (B) The reference to “20 percent” in Section 41(a)(2) of the
 37 Internal Revenue Code is modified to read “34 percent.”
- 38 (6) For each taxable year beginning on or after January 1, 2016,
 39 and before January 1, 2017, both of the following shall apply:

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

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

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

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

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

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

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

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

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

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

25 (d) The provisions of Section 41(e)(7)(A) of the Internal
26 Revenue Code shall be modified so that “basic research,” for
27 purposes of this section, includes any basic or applied research
28 including scientific inquiry or original investigation for the
29 advancement of scientific or engineering knowledge or the
30 improved effectiveness of commercial products, except that the
31 term does not include any of the following:

32 (1) Basic research conducted outside California.

33 (2) Basic research in the social sciences, arts, or humanities.

34 (3) Basic research for the purpose of improving a commercial
35 product if the improvements relate to style, taste, cosmetic, or
36 seasonal design factors.

37 (4) Any expenditure paid or incurred for the purpose of
38 ascertaining the existence, location, extent, or quality of any deposit
39 of ore or other mineral (including oil and gas).

1 (e) (1) In the case of a taxpayer engaged in any
2 biopharmaceutical research activities that are described in codes
3 2833 to 2836, inclusive, or any research activities that are described
4 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard
5 Industrial Classification (SIC) Manual published by the United
6 States Office of Management and Budget, 1987 edition, or any
7 other biotechnology research and development activities, the
8 provisions of Section 41(e)(6) of the Internal Revenue Code shall
9 be modified to include both of the following:

10 (A) A qualified organization as described in Section
11 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an
12 institution of higher education as described in Section 3304(f) of
13 the Internal Revenue Code.

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

20 (2) For purposes of this subdivision:

21 (A) “Biopharmaceutical research activities” means those
22 activities that use organisms or materials derived from organisms,
23 and their cellular, subcellular, or molecular components, in order
24 to provide pharmaceutical products for human or animal
25 therapeutics and diagnostics. Biopharmaceutical activities make
26 use of living organisms to make commercial products, as opposed
27 to pharmaceutical activities that make use of chemical compounds
28 to produce commercial products.

29 (B) “Other biotechnology research and development activities”
30 means research and development activities consisting of the
31 application of recombinant DNA technology to produce
32 commercial products, as well as research and development
33 activities regarding pharmaceutical delivery systems designed to
34 provide a measure of control over the rate, duration, and site of
35 pharmaceutical delivery.

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

1 (g) For each taxable year beginning on or after January 1, 1998,
2 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
3 Internal Revenue Code, relating to contract research expenses, is
4 modified to read “this part or Part 10 (commencing with Section
5 17001).”

6 (h) (1) For each taxable year beginning on or after January 1,
7 2000:

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

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

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

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

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

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

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

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

36 (1) The last sentence shall not apply.

37 (2) If the amount determined under Section 41(a) of the Internal
38 Revenue Code for any taxable year exceeds the limitation of
39 Section 41(g) of the Internal Revenue Code, that amount may be
40 carried over to other taxable years under the rules of subdivision

1 (f), except that the limitation of Section 41(g) of the Internal
 2 Revenue Code shall be taken into account in each subsequent
 3 taxable year.

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

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

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

11 ~~(n) For taxable years commencing on and after January 1, 2014,~~
 12 ~~a taxpayer utilizing a credit pursuant to this section shall report to~~
 13 ~~the Franchise Tax Board, in a separate line item, the following~~
 14 ~~information:~~

15 ~~(1) Total research and development expenditures made in the~~
 16 ~~tax year subject to the credit and the total research and development~~
 17 ~~expenditures not subject to the credit.~~

18 ~~(2) For the total research and development expenditures subject~~
 19 ~~to the credit, a breakdown of the total amount of the credit~~
 20 ~~attributable to each of the following:~~

21 ~~(A) Gross wages.~~

22 ~~(B) Capital expenditures.~~

23 ~~(C) Outside consultants and services.~~

24 ~~SEC. 11.~~

25 *SEC. 9.* Section 23687 is added to the Revenue and Taxation
 26 Code, to read:

27 23687. (a) For each taxable year beginning on or after January
 28 1, 2014, there shall be allowed to a qualified taxpayer as a credit
 29 against the “tax,” as defined in Section 23036, an amount equal
 30 to 25 percent of the amount of a qualified contribution that is made
 31 by a qualified taxpayer in that taxable year.

32 (b) For purposes of this section, the following terms have the
 33 following meanings:

34 (1) “Qualified contribution” means a monetary contribution by
 35 a business entity to a postsecondary educational institution for
 36 curriculum or research leading to job opportunities in the private
 37 sector, or consultation services associated with the establishment
 38 of curriculum or research leading to job opportunities in the private
 39 sector, where the business entity and the postsecondary educational

1 institution agree that there is a substantial potential for the future
2 employment of students as a result of the contribution.

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

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

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

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

17 ~~SEC. 12.~~

18 *SEC. 10.* The provisions of this act are severable. If any
19 provision of this act or its application is held invalid, that invalidity
20 shall not affect other provisions or applications that can be given
21 effect without the invalid provision or application.

22 ~~SEC. 13.~~

23 *SEC. 11.* Notwithstanding Section 2230 of the Revenue and
24 Taxation Code, no appropriation is made by this act and the state
25 shall not reimburse any local agency for any sales and use tax
26 revenues lost by it under this act.

27 ~~SEC. 14.~~

28 *SEC. 12.* This act is an urgency statute necessary for the
29 immediate preservation of the public peace, health, or safety within
30 the meaning of Article IV of the Constitution and shall go into
31 immediate effect. The facts constituting the necessity are:

32 In order to support the innovation and entrepreneurial activity
33 that is critical to the state’s economic growth and prosperity, it is
34 necessary that this act take effect immediately.