AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN ASSEMBLY MAY 6, 2013

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AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 653

Introduced by Assembly Member V. Manuel Pérez
(Coauthors: Assembly Members Daly,~~Fox, Fong,~~*Fong, Fox,* Gorell, Gray, *Mullin,* Nestande, and Weber)
(Coauthors: Senators Calderon, Galgiani, and Lieu)

February 21, 2013

An act to amend Section 13997.6 of, and to add 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,~~ *of* the Revenue and Taxation Code, relating to 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. Economic development.

(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.

~~(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.~~

~~(3)~~

(2) 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, *and before January 1, 2019,* increase the credit for research and development expenses, as provided.

~~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.~~

~~(4)~~

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

~~(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.~~

~~This bill would provide that the sales and use tax exemption authorized by the bill does not apply to local sales and use taxes and transactions and use taxes.~~

~~(6)~~

(4) 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~~ *no*.

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

SECTION 1. This act shall be known, and may be cited, as the California Innovation and Jobs Act.

SEC. 2. The Legislature hereby finds and declares:

(a) California, in the last 10 years, has declined from the sixth largest economy in the world to the ninth, now behind Brazil. During that time, manufacturing declined in California from 1.865 million jobs to 1.257 million jobs.

(b) California has experienced continual budget deficits beginning with the "dot com" bust which occurred in 2000, and has never fully recovered. Every year, the Legislature has had to grapple with too few revenues to meet a continuing demand for public services.

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

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

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

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

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

Article 4.5. California Innovation Initiatives

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

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

(c) The office shall set guidelines for approval, designation, operation, reporting, and dedesignation of iHubs.

(d) The office may designate specific regions throughout the state as an iHub through a competitive application process.

(1) An eligible applicant shall be one or more of the following:

(A) A fully accredited institution of higher education.

(B) A private nonprofit corporation engaged in economic development activities.

(C) A county or municipality in this state that has a preexisting economic development department or program or both.

(D) A public economic development institution, including a workforce investment board or an economic development corporation.

(2) An applicant’s proposal for iHub designation shall include, but shall not be limited to, all of the following information:

(A) A statement of purpose.

(B) A signed statement of cooperation and a description of the roles and relationships of each entity involved in the partnership.

(C) A list of goals to be achieved with the designation of the iHub.

(D) A list of iHub assets and resources.

(E) A focus area of the iHub, including industry sectors or other targeted areas for development and growth.

(e) The office may designate an iHub for a term of not more than five years. An iHub may reapply for a designation.

(f) (1) The iHub designation shall not be official until a memorandum of understanding is entered into by the applicant and the office. The memorandum of understanding shall include goals and performance standards and other related requirements as determined by the office.

(2) For an iHub designated by the office before January 1, 2014, the iHub partnership shall have until September 1, 2014, to enter into a memorandum of understanding with the office that meets the requirements of this article.

(g) More than one iHub may be designated in an area to the extent that there is a clear distinction between the focus area of each iHub.

(h) An iHub shall, to the extent feasible, do one or more of the following:

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

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

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

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

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

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

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

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

(4) Provide services to link technology startups and businesses to research and development institutions for the purposes of

transferring new technology to a new or an expanding business sector, or accessing scientific knowledge and equipment.

(j) An iHub shall annually report to the office on its progress in meeting the goals and performance standards as described in the memorandum of understanding with the office. The office shall annually post the information from these reports on the office's Internet Web site and provide notice to the Governor and relevant policy committees of the Legislature that the information is available on the Internet Web site.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) For purposes of this section:~~

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

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

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

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

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

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

~~(A) A person that is primarily engaged in those lines of business classified in Industry Groups 3111 to 3399, inclusive, Industry Group 5112, NAICS Industry 221119 or 541711 of the North American Industry Classification System (NAICS) published by~~

~~the United States Office of Management and Budget (OMB), 2007 edition.~~

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

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

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

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

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

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

~~(D) Tangible personal property used in recycling.~~

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

~~(d) Notwithstanding subdivision (a), the exemption provided by this section shall not apply to any sale or use of tangible personal property which, within one year from the date of purchase,~~

~~is either removed from California or converted from an exempt use under subdivision (a) to some other use not qualifying for the exemption or used in a manner not qualifying for exemption.~~

~~(e) If a purchaser certifies in writing to the seller that the tangible personal property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax pursuant to this section, and within one year from the date of purchase, the purchaser (1) removes that tangible personal property outside California, (2) converts that tangible personal property for use in a manner not qualifying for the exemption, or (3) uses that tangible personal property in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the tangible personal property at the time the tangible personal property is so removed, converted, or used, and the sales price of the tangible personal property to the purchaser shall be deemed the gross receipts from that retail sale. The purchaser shall notify the State Board of Equalization within 90 days of: (1) taking the tangible personal property out of state, (2) converting the tangible personal property to an ineligible use, or (3) using the tangible personal property in a manner not qualifying for the exemption.~~

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

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

~~(h) Notwithstanding the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) and the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not~~

~~apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.~~

~~SEC. 6.~~

SEC. 5. Section 17052.12 of the Revenue and Taxation Code is amended to read:

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

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

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

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

(3) For each taxable year beginning on or after January 1, 2000, *and before January 1, 2014,* the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "15 percent."

(4) For each taxable year beginning on or after January 1, 2014, and before January 1, 2015, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "18 percent."

(5) For each taxable year beginning on or after January 1, 2015, and before January 1, 2016, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "21 percent."

(6) For each taxable year beginning on or after January 1, 2016, and before January 1, 2017, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "24 percent."

(7) For each taxable year beginning on or after January 1, 2017, and before January 1, 2018, the reference to "20 percent" in Section

41(a)(1) of the Internal Revenue Code is modified to read "27 percent."

(8) For each taxable year beginning on or after January 1, 2018, *and before January 1, 2019,* the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "30 percent."

(9) For each taxable year beginning on or after January 1, 2019, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "15 percent."

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

(d) "Qualified research" shall include only research conducted in California.

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

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

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

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

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

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

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

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

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

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

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

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

(1) The last sentence shall not apply.

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

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

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

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

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

~~17053.87. (a) For each taxable year beginning on or after January 1, 2014, there shall be allowed to a qualified taxpayer as a credit against the "net tax," as defined in Section 17039, an amount equal to 25 percent of the amount of a qualified~~

~~contribution that is made by a qualified taxpayer in that taxable year.~~

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

~~(1) “Qualified contribution” means a monetary contribution by a business entity to a regionally accredited 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.~~

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

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

~~(d) (1) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including, but not limited to:~~

~~(A) Requiring the regionally accredited postsecondary institution to provide the taxpayer with a tax credit certificate that the taxpayer can use to document the contribution. The certificate shall be on a form prescribed by the Franchise Tax Board.~~

~~(B) Requiring the regionally accredited postsecondary institution to annually provide a list to the Franchise Tax Board of each taxpayer that made a contribution and was issued a certificate during the tax year. The list shall include the name of the taxpayer, the taxpayer’s tax ID number, identification of the type of curriculum or research to be developed, and the amount of money contributed.~~

~~(C) Requiring the regionally accredited postsecondary institution to retain a record of the contribution and use of the funds for 10 years following the first year in which the institution reported the contribution pursuant to subparagraph (B).~~

~~(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or~~

~~guideline established or issued by the Franchise Tax Board pursuant to this section.~~

~~SEC. 8.~~

SEC. 6. Section 23609 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

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

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

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

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

(3) For each taxable year beginning on or after January 1, 2000, *and before January 1, 2014,* both of the following shall apply:

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

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

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

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code ~~shall not be modified.~~ *is modified to read "18 percent."*

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read ~~"29~~ *"27* percent."

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

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read ~~"25~~ *"21* percent."

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read ~~"34~~ *"30* percent."

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

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read ~~"30~~ *"24* percent."

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read ~~"39~~ *"33* percent."

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

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read ~~"35~~ *"27* percent."

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read ~~"40~~ *"36* percent."

(8) For each taxable year beginning on or after January 1, 2018, *and before January 1, 2019,* both of the following shall apply:

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read ~~"40~~ *"30* percent."

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read ~~"25~~ *"39* percent."

(9) For each taxable year beginning on or after January 1, 2019, both of the following shall apply:

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

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

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

(2) "Qualified research" and "basic research" shall include only research conducted in California.

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

(1) Basic research conducted outside California.

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

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

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

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

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

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

(2) For purposes of this subdivision:

(A) "Biopharmaceutical research activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

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

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

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

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

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

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

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

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

(3) Section 41(c)(7) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer’s trade or business

that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

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

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

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

(1) The last sentence shall not apply.

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

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

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

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

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

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

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

~~(1) "Qualified contribution" means a monetary contribution by a business entity to a regionally accredited 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.~~

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

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

~~(d) (1) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including, but not limited to:~~

~~(A) Requiring the regionally accredited postsecondary institution to provide the taxpayer with a tax credit certificate that the taxpayer can use to document the contribution. The certificate shall be on a form prescribed by the Franchise Tax Board.~~

~~(B) Requiring the regionally accredited postsecondary institution to annually provide a list to the Franchise Tax Board of each taxpayer that made a contribution and was issued a certificate during the tax year. The list shall include the name of the taxpayer, the taxpayer’s tax ID number, identification of the type of curriculum or research to be developed, and the amount of money contributed.~~

~~(C) Requiring the regionally accredited postsecondary institution to retain a record of the contribution and use of the funds for 10 years following the first year in which the institution reported the contribution pursuant to subparagraph (B).~~

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

~~SEC. 10.~~

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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

~~SEC. 12.~~

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

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

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